SUPREME COURT OF THE UNITED STATES,

No. 168.

THE UNITED STATES App'lts.

vs.

JOHN B. R. COOPER.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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Transcript of the Proceedings in Case No. 124,

El Sur.

JOHN B. R. COOPER,
vs.
THE UNITED STATES.

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it rememembered, that on this, Tuesday, March 23d, Anno Domini, one thousand eight hundred and fifty-two, before the Commissioners to ascertain and settle the Private Land Claims in the States of California, sitting as a Board in the City of San Francisco, in the State aforesaid in the United States of America, the following proceedings were had, to wit:—

The petition of Juan B. R. Cooper, for the Rancho "El Sur," was presented and ordered to be filed, and docketed No. 124, and is as follows, to wit:—

JOHN B. R. COOPER, Claimant,
vs.
THE UNITED STATES, Defendant.

To the Honorable Commissioners to settle Private Land Claims in California.

The petitioner, John B. R. Cooper, respectfully shows: That on the 27th day of February A. D. 1831, Juan B. Alvarado received from the Governor of California, a provisional grant of the tract of land known by the name of "El Sur," situate in the County of Monterey; That on the 30th day of September, A. D. 1834, Jose Figueroa Governor of California, by virtue of authority in him vested, granted to the said Juan B. Alvarado, the said tract of land called "El Sur," containing two square leagues, with the boundaries described in the grant, and set forth in the accompanying map, which grant was approved by the Deputation of California, on the 1st day of August A. D. 1834. All of which is fully shown in the original Expediente on file in the Government Archives, an exact copy of which is submitted herewith, marked "A" with a translation marked "B."

The petitioner also submits herewith a copy of the title issued to the said Alvarado, by the Governor marked "C," with a translation marked "D."

The petitioner also shows, that on the 9th day of December, A. D. 1840, the said Juan B. Alvarado conveyed to the petitioner his title to the aforesaid tract of land by a Deed of Exchange, a copy of which is submitted herewith marked "E," with a translation marked "F."

The petitioner further shows, that the said land has not been surveyed by the Surveyor Gen'l of the United States; but that bounda-

ries are fully set forth in the title and corresponding map, and are well known.

That from the year 1831, to the 1st day of December 1840, the said Juan B. Alvarado was, and that since that time, the petitioner has been and is now in the quiet, peaceful and undisputed possession and occupation of the said tract of land.

That he knows of no conflicting claim. That he relies for confirmation of title, upon the original papers, copies of which are submitted herewith; upon the records and minutes in the archives now under the charge of the Surveyor General: and upon such other and further proofs as he may be advised are necessary.

Wherefore he prays the Commissioners to confirm to him the said tract of land.

By his Attorneys,
HALLECK, PEACHY AND BILLINGS.

Filed in office, March 23d 1852.

GEO. FISHER,
Sec'ry.

Upon which petition, the following subsequent proceedings were had in their chronological order, to wit:

Monday, April 12, 1852.

In case No. 124. John B. R. Cooper, the deposition of E. P. Hartnell, a witness in behalf of the claimants, taken before Commissioner Hiland Hall was filed and is in the words and figures as follows, to wit:

(*Vide* pages of this Transcript, 11, 12, 13.)

Saturday, May 8th 1852.

In case No. 124. J. B. R. Cooper, the deposition of David Spence, a witness in behalf of the claimant, taken before Hiland Hall, was filed and is in the words and figures as follows, to wit:

(*Vide* pages of this Transcript, 23, 24.)

Tuesday, June 1st 1852.

The following cases were set in their order for hearing, to wit: No. 62, Antonio & Faustine German. No. 124, J. B. R. Cooper. No. 138, J. B. R. Cooper. No. 191, Carlos Walters.

Monday, September 6th 1852.

In case No. 124. John B. R. Cooper, for the place called "El Sur," called. The counsel for the claimant, H. W. Halleck, opened the argument and closed, answered by the U. S. Law Agent. Case submitted to the Board and taken under advisement.

In the same case, the counsel for the claimant submitted to the

Board, as evidence in behalf of the claimant, an authenticated copy of the original Expediente, on file in the office of U. S. Surveyor General for California, heretofore, to wit: on the 23d March 1852, filed with the petition in the case, as exhibit "A," with a translation thereof marked "B," which exhibits are in the words and figures, as follows, to wit:

(*Vide* pages of this Transcript, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59.)

Monday, September 13th, 1852.

In case No. 124, John B. R. Cooper for the place called "El Sur," Commissioner Harry J. Thornton delivered the opinion of the Board, declaring the claim valid, the entering of the decree of final confirmation being reserved for a future day.

Saturday, December 18th, 1852.

Case No. 124, John B. R. Cooper, for the place named "El Sur," Commissioner Hiland Hall delivered his opinion in this case.

In the same case, Commissioner Harry J. Thornton delivered the decree of final confirmation of this Board.

Ordered. That the opinion of this Board, delivered by Commissioner Harry J. Thornton, on the 13th of September, 1852. The opinion delivered this day by Commissioner Hiland Hall, and the Decree of final confirmation of this Board, also delivered this day, in this case, be recorded in the journal.

Which opinions and decree are in the words and figures as follows, to wit:

Commission for ascertaining and settling Private Land Claims in the State of California.

Session at Los Angeles.

JOHN B. R. COOPER, Claimant,
vs.
THE UNITED STATES.
} El Sur, No. 124.

Decision of the Board by Harry J. Thornton.

The claimant presents this claim as assignee by virtue of a Deed of Exchange duly solemnized and authenticated, from the original grantee, Juan B. Alvarado, bearing date on the 9th of December 1840.

The original grant proved by the testimony of David Spence, is in evidence, as also a copy of Record, among the public Archives, which being duly certified by the Surveyor General of California, the custodian thereof, together with the whole expediente relating to the same, filed as part of the evidence in this case. The grant was executed by

virtue of the decree of the Mexican Congress of the 18th of August, 1824, and of the ordinance of the 21st of November, 1828, carrying the said decree into effect by Jose Figueroa, the Political Chief of the Territory of Upper California, on the 30th of September, 1834.

There is no question, or controversy as to the authority of Figueroa, nor of the genuineness of the grant.

It appears from the evidence that Alvarado, the grantee, occupied the land in 1831, under a provisional title, prior to the grant in fee, and that it has been occupied, and resided upon continuously ever since its first settlement by the said Alvarado, and the present claimant, for about twenty years.

The grant is a full conveyance of the fee, in accordance with the decree and ordinance above cited, and by the grant and the accompanying map, or déseño, which is referred to therein, the land is identified and so segregated from the residue of the public domain, as to render its location and survey entirely feasible.

All the objections, except one, urged by the Law Agent of the United States against the confirmation of this claim, have been considered by this Board and overruled in the opinion on file in the case of Czar Cervantes, No. 56 of the docket of cases.

The objection not hitherto overruled, is, that the first condition in the grant, viz: "That the grantee shall abide by the regulations which may be made for the distribution of vacant lands; and in the mean time neither the grantee nor his heirs can divide nor alienate the land," has been violated, by the transfer to the present claimant, and that of course, no right either legal or equitable could be acquired by him in virtue of said transfer.

If this condition was lawfully imposed upon the grant to Alvarado, the result would certainly follow, which is alleged by the objection. With regard to this condition, I am under the impression that it was either capriciously inserted, or in a spirit of paternal guardianship, to operate in tenorem, against improvident alienation, or in accordance with the form which was used in the case of provisional concessions or licenses to occupy, issued prior to the promulgation of the ordinance of the 21st of November, 1828, in which it would be very properly inserted.

But at all events, our conclusion is, that in this grant the condition is not nugatory. It is clear, that if the full ownership of the land was granted, as the decree of August, 1824, and the ordinance of November, 1828, evidently contemplated, *it* no longer remained vacant land, which could be affected under the Mexican Constitution, by any future regulations for the disposition thereof. By that decree and ordinance, a grant in full property, with all the necessary incidents of ownership in fee, was clearly intended and provided for.

Upon the ascertainment by the Political Chief that all the prescribed requisites were met by the applicant, both as regarded himself and the land which he solicited, it became his duty to carry out by his grant the purpose of the Government, which was the inhab-

itancy or cultivation of the vacant land of the Republic; an object which might have been thought more attainable by means of unrestricted grants of the soil in full property, than by such as would withdraw it from commerce, and would tie the grantee, and all his posterity to one spot, like an oyster to the rock.

The conduct of the Political Chief in performing the function of granting, devolved upon him by the ordinance of 1828, was regulated by the laws in force upon that subject; and he could not impair or defeat the policy and object of the Government, by the imposition of terms and conditions, which were at war with that object and policy.

It is certain that no such condition as the one we are considering is contained in the decree and ordinance, in virtue of which, he made this grant; and if as we have concluded, a conveyance in full property was intended by them, a restriction such as this condition imposes, emasculates the grant of one of its distinctive characteristics, and is in direct contravention of the provisions of the law.

The ordinance of November, 1828, does, it is true, require the Political Chief to conform not only to the said decree and ordinance, but generally, to the laws regulating the disposition of public domain, by reverting to the laws existing at the time, it appears that they were in conflict with this prohibition to alienate. The decree of the Cortes of Spain, of the 4th of January, 1813, for the reduction of *the vacant* and other common lands to private ownership, and which, it would seem, was binding in the Republic of Mexico, being published as such among her laws, provides in the 11th Section, that they shall be distributed "en plena propriedad" in full property. Page 56, 5th vol. of Orders and Decrees of the Cortes of Spain, considered of force in the Republic.

So by a provision in the 14th Section of the Decree of the 27th of September, 1820, "upon the suppression of every species of entails," ib. page 135, it is declared, that, "no one can in future, neither for the purpose of advantage, nor under any other pretext establish a mayorazgo, fidei commission, advowson, nor any other entail whatever, in relation to any kind of property or rights, nor prevent its alienation either directly or indirectly."

It is said in Escriche, page 610, article Enajenécion, edition of 1851. "No one can found entail on any class of property, or right, nor prohibit directly, nor indirectly, their alienation." We conclude that the policy of the country, and its express Legislation was violated by this condition in the grant. Collection of Decrees of the Mexican Nation, on entails, vol. 2, 154, 7th August, 1823.

In consideration of the whole case, for the reasons above given, we are unanimous in the opinion, that, in view of the principles prescribed for our Government, in the act of the 3d of March, 1851, the claim in this case presented, is valid, and ought to be confirmed to the present claimant.

In the result above announced, Commissioner Hall concurs.

(Signed) HARRY J. THORNTON.

No. 124. *Claim of John B. R. Cooper.*

In this case I agree that the opinion of Commissioner Thornton, furnishes sufficient reasons for the confirmation of the claim, though I do not concur in a portion of them.

(Signed) HILAND HALL,
Commissioner.

JOHN B. R. COOPER, Assignee, Claimant,
vs.
THE UNITED STATES.

No. 124. *Decree of Final Confirmation.*

This Board upon full consideration of the various grounds affecting the validity of the said claim, having come to the conclusion that the said claim is valid, therefore now proceeeds to make, and does hereby make, the following decree or report of final confirmation, viz: It is decreed that the said claim be confirmed to the extent, and quantity of two square leagues, (two sitios de ganado mayor) and for no more; being the same land described in the grant and Expediente referred to therein, and of which possession is proved to have been had by the original grantee, and the claimant.

Provided that the said quantity of land granted, and now here confirmed, be contained within the Boundaries called for in the said grant and map, to which the grant refers; and if there be less than the said above named quantity within the said bounds, then we confirm to the claimant, that less quantity, it being apparent that said quantity exceeds the minimum, prescribed in the ordinance, of Two Hundred Naras.

(Signed) HILAND HALL,
(Signed) HARRY J. THORNTON,
Commissioners.

SAN FRANCISCO, *April* 12*th*, 1852.

On this day before Hiland Hall one of the Commissioners for ascertaining and settling private land claims in the State of California, came William E. P. Hartnell, a witness produced in behalf of John B. R. Cooper, the claimant in case No. 124, on the Docket of said Commissioners, and was duly sworn.

The Law Agent was present and attended by Mr. Greenhow.

In answer to questions propounded by the Counsel for the Claimant, the witness testified as follows:

My name is William E. P. Hartnell; my age is 54 years; I have lived in the present county of Monterey, California, 30 years; and reside there at the present time.

I have held under the Mexican Government the Offices of Collector of Customs, Inspector General of Missions, and have been 1st Regidor and acting Alcade of Monterey.

I am acquainted with the hand-writing of Jose Figueroa, and Agustin N. Zamorana; their *their* signatures to the paper before me are genuine, the paper itself is an original and genuine, and has been compared by me with Exhibit "C," filed in the Office of the Secretary of the Land Commissioners in claim No. 124, and the latter found to be a correct and perfect copy.

I also know the hand writing of David Spence, and that his signature to the paper before me is genuine, and I have compared this paper with Exhibit "E," filed in the same claim, and find the latter a correct and perfect copy.

I know the Rancho called "El Sur" in Monterey County, I also know that it was occupied by John B. Alvarado, from about the year 1833, to about the year 1840, and that it has ever since been occupied and is now occupied by John B. R. Cooper.

I have never heard of any other claimant for the said tract of land.

The said grant given as aforesaid to John B. Alvarado, and now held by John B. R. Cooper, was always regarded by the Mexican Authorities in California as a good and perfect Title. I have been intimately acquainted with all the Governors of California since I came into the Country, and know that they granted lands within ten leagues of the coast, the same as other lands in California.

I never heard any one of the Governors express any doubt of their power or authority to make such grants, I have always seen and conversed with the Mexican Governors almost immediately after their arrival here, but I never heard any one them express any doubt of the authority of the Governors to make such grants.

In answer to questions put by the Law Agent, the witness testifies as follows:

The land has always been used for keeping cattle and horses. A Thousand Head of Cattle or more, have been kept on the land at a time.

The land is difficult of access, and for that reason, not convenient for cultivation.

The land borders on the Sea Coast. If a title has not been disapproved by the Territorial or Departmental Assembly, I consider it a perfect Title. If a title has not been presented to the Assembly, I consider it a legal title, if otherwise in due form.

I think the Government of Mexico has been continually informed that the Governors of California were constantly granting lands within ten leagues of the Coast, and have never interfered with or disapproved of said grants.

I think the Title in the present case was valid though the land was within ten leagues of the Coast.

W. E. P. HARTNELL.

Sworn and subscribed before me,

HILAND HALL.

Filed in Office April 12th, 1852.

GEO. FISHER, *Sec'y.*

"C." SELLO PRIMERO, *Seis Pesos.*

DOCUMENT No. 1. ANNEXED TO DEPOSITION OF W. E. P. HARTNELL.

Habilitado Provicionalmente por la administracion de la Aduna Maritima de Monterey, para los A os de mil ochocientos treinta, y cuatro, y mil ochocientos treinto y cinco.

Figueroa, RAFAEL GONZALES.

[POLITICO DE LA ALTA CALIFORNIA, DO BIERNO. IN PLACE OF EAGLE.]

JOSE FIGUEROA, General de Brigada de la Republica Mexicana, Comandaute General Inspector y Gefe Superior Politico del Tenitorio de la Alta California.

Por cuanto el Cindadano Juan Bantista Alvarados, Meficano por Nacimiento ha pretende do por su beneficio personal, y el de su familia, el terreno conocido con el hombre del Sur, colindante con la misson de San Carlos, la Sierra, y la Costa; practica dos previamente las díligencias y averiguaciones con cernientes segun lo dispuesto por leyes y Reglamentos: usando de las faculdades que me sou conferidas y de conformidad con el acuerdo de la Exeleutisima Diputaciore Territorial del dia primero de dgosto, ultimo aprovando la concesion del citado terreno del Sur, echa en treinta de Julio del presente ano al referido cindadano Juan Bantista Alvarado; a nombre de la Nacion Mexicana he venido eu conferirle el terreno mencionado eu los presentes letras declarandole la propiedad de el sujeto a los condiciones siguientes.

1a. Que se someterá á las que estableciere el reglamento que se ha de formar para la distribucion de terrenos baldios y que entretanto in el agraciado ni Sus herederas podran dividir ni enagenar el que le be adjudica: imponer sento vinculo, fianza hipoteca ni otro gravamen aunque sea por causa piadosa, ni pasarlo á manos muertas.

2a. Podra cercarlo sin perjudicar las travesias caminos y Servidumbres: lo disfrutará libre y esclusivamente, destinandolo al uso ó cultivo que mas le acomode; pero dentro de un año a lo mas fabricara casa y estará havitada.

3a. Solicitará del respectivo que se le dé posecion juridica en virtud de este Despacho por el cual se demarcaran los linderas en cuyos limites pondra a mas de las mohoneras algumos arboles frutales ó Silvestres de alguna utilidad.

4a. Elterreno de que se hace mencion es de dos sitios de ganado mayor, poco mas ó menos segun esplica el diseño que corre en el espediente: el Juez que diere la posecion la hara medir conforme ordenanza para senalar los linderas quedanda el sobrante que resulte á la nacion para los usos combenientes.

5a. En consecuencia mando que teniendose por firme y valedero este Titulo se tome razon de el en el libro á que corresponde y se entregin al intercsado para su resguardo y demas fines.

Dado en Monterrey á treinta de setiembre de mil ochocientos treinta y cuatro.

JOSE FIGUEROA.

AGUSTIN V. ZAMORANO, *S'rio.*

Queda tomada razon de este Fitulo en el libro de asientos sobre adjudicacion de Terrenos Valdios á fojas cincuenta y dos numero cincuenta ql obra en la Secretaria de mi cargo. En Monterrey á treinta de Septiembre de mil ochocientos treinta y cuatro.

ZAMORANA.

Filed in Office Sept. 6th, 1852.

GEO. FISHER, *Sec'y.*

D. *Translation of Title.*

Sale of the first class Six Dollars.

Authorized provisionally by the Collectorship of the Maritime Custom House of Monterey for the years Eighteen Hundred and Thirty-four and Eighteen Hundred and Thirty-five.

(Signed) FIGUEROA. (Signed) RAFAEL GONZALEZ.

GOVT. SEAL. Jose Figueroa, Brigadier General and Superior Political Chief of the Territory of Upper California.

Whereas Juan Bantista Alvarado, a Mexican by birth has solicited for his personal benefit and that of his family the land known by the name of the "Sur," bounded by the Alission of San Carlos, the Mountains and the Coast; the necessary steps and investigations having been previously taken and made according to the requirement of Laws and regulations: I have by virtue of the power conferred upon me, and in conformity with the resolution of the most excellent Territorial Deputation of the First of August last, approving the grant of said land made on the thirtieth of July of the present year, to said citizen Juan Bantista Alvarado, granted unto him in the name of the Mexican Nation the said land by these present letters, declaring unto him the ownership thereof, subject to the following conditions.

1st. He shall abide by those which may be established by the regulations to be formed for the destribution of vacant lands, and in the mean time, neither the grantee nor his heirs can divide nor alienate the land adjudicated to him, impose ground rent, (censo) entail (vinculo) reversion (fianza) mortgage or any other burthen although it may be for pious purposes, nor transfer it in mortmain.

2d. He may fence it in without prejudice to the crossings, roads or privileges: he shall enjoy it freely and exclusively destining it to the use or cultivation which may best suit him, but within one year at farthest, he shall build a house and it must be inhabited.

3d. He shall request the respective Justice to give him juridical possession in virtue of this Title, said magistrate shall designate the

boundaries, at the limits whereof the grantee shall, besides placing the land marks, plant some fruit trees or wild ones of some utility.

4th. The land whereof mention is made, consists of two square leagues (dos sitios de gauado mayor) a little more or less, as appears by the plot which accompanies the Expediente; the justice who gives possession shall cause it to be measured according to law in order to mark the boundaries leaving the overplus which may result, to the nation fer the necessary uses.

5th. If he transgress these conditions he shall forfeit his right to the land, and it may be denounced by another.

I consequently command that holding this title as firm and valid, it be recorded in the Corresponding Book, and be delivered to the party interested for his security and further ends.

Given in Monterey on the thirtieth of September, Eighteen Hundred and Thirty-four.

(Signed) JOSE FIGUEROA.
(Signed) AGUSTIN V. ZAMORANA,
Sec'y.

A record of this title has been made in the Book of Entries respecting the adjudication of vacant lands, at folio fifty-two and number fifty, kept in the Secretary's Office under my charge.

Monterey, thirtieth of September, eighteen hundred and thirty-four.

(Signed) ZAMORANA.

I, the undersigned do hereby certify the foregoing to be a true and faithful Translation of the original Title in the possession of John B. R. Cooper.

W. E. P. HARTNELL, *State Translator.*

Office of the State Translator.
Montery, 31st December, 1851.

I certify the foregoing to be a true and correct Translation from an authenticated copy of the original in the Office of the U. S. Surveyor General for California, which authenticated copy is filed in this Office with the Petition, in case No. 124, and marked Exhibit C.

GEO. FISHER, *Sec'y.*

Filed in office March 23d, 1852.

GEO. FISHER, *Sec'y.*

(F. *Translation of Transfer Deed.*)

Stamp Third, Two Reals.

Provisionally authorised by the Maritime Custom House of the Port of Montery, in the Department of the Californias, for the years one thousand eight hundred and forty, and one thousand eight hundred and forty-one.

(Signed) JIMENO,
(Signed) ANTONIO MARIA OSIO.

In the Port of Monterey in the Department of the Californias, on the 9th day of the month of December of the year one thousand eight hundred and forty, before me David Spence, Constitutional Justice of the Peace of this Demarcation (District) and before the assistant witnesses with whom I act in the established form for want of a Notary Public, and the witnesses to the instrument who will hereinafter be mentioned, appeared the Senores Don Juan B. Cooper, and Don Juan B. Alvarado, residents of this place which persons I certify that I know, and the former said: that being owner in fee of the land known by the name of *La Sagrada Familia* (a 1) Los Salinas, which he obtained by legal purchase from its former owner, Senor Don Joaquin de la Torre, the writing of which he publicly exhibited and I certify that I have seen it, in which land is included a "Potrero" (Stock Farm) formed by the sea, "la Trembladena," at the narrowest part, the Monterey river, and a ditch, (Zanjou) which runs along the side towards the plain of Las Salinas, and also ten hundred varas of land at the entrance of "La Bolsa," on the side next the said river—he concedes, (grants) both the "Potrero" and the two hundred varas of land aforesaid, to the above named Senor Alvarado, for himself and in the name of his heirs and successors, and of whoever of them may have title, voice, or claim in any manner, that he may possess it, and that it may be recognized as his property, firm, valid, and perpetual, so that no person may disturb him in its possession; declaring, as he declares that it has not been sold, alienated or pledged, and that it is free from any incumbrance, whether public, perpetual, temporary, special, general, tacit, or expressed, and as such he conveys it. And the aforesaid Senor Don Juan B. Alvarado, in consideration of this donation, conveys to the said Senor Cooper, in the same terms, form, and manner, without any variation, the place called "El Sur," which he holds by first title, from the Departmental Government, in extent, all that described in the instrument which he presented in proceedings, and which Don Juan Cooper received in proof of the contract. Moreover both parties declare that the values of the lands are perfectly equal, and if either should exceed the other in a large or small sum this one makes (of the excess) free gift and donation, just, perfect, and irrevocable, which in law is called interrivos, with judicial intervention, and other legal forms; they renounce law 4: title 7: Book 5: of the "recopilacion" and all others which treat of lesion in mcr or less than one-half of the just value, and the consider as past, the four years specified in them, in which to demand restitution of the property or what was wanting of its full value. And they both give up forever, the dominion, possession, title, recourse and every other right which they may have, Senor Cooper to the Potrero and two hundred varas of land aforesaid, and Senor Alvarado to the place "*Sur*" before mentioned, and they renounce and transfer them each to the other, each conferring on the other irrevocable power, with free, full and general administration that of his own authority he may take the tenure and possession which lawfully pertains to him: binding themselves that this exchange shall be

certain sure and effective, and that no person shall disturb or bring suit against either of them, and if it should happen otherwise, they will mutually come forward in defence of the person disturbed, until he be left in peaceable possession: and if this should not be accomplished, his former property will be returned to him, with the useful improvements which he may have, and all the costs, injuries, and damages he may have sustained.

And for the observance of the foregoing, they bind their property, present and future, and with it submit themselves to the jurisdiction of the magistrate, who by law, can and ought to take cognizance of the matter, that they may compel and force them to comply with it, as with a definite sentence, consented to and passed in authority of *Res judicata:* they renounce the laws in their favor, and the legal exceptions in form.

In testimony of which they executed (delivered) and signed this with me and those of my assistance, the witnesses to the instrument being the Senores Don Antonio Maria Osio, Don Gemuesindo Flores, and Don Eugenio Montenegro, residents and present.

(Signed) DAVID SPENCE.
(Signed) JUAN B. ALVARADO.
(Signed) JUAN B. COOPER.

Assistant Witnesses.

(Sgd) GUILLERMO E. HARTWELL.
(Sgd) JUAN MALARIN.

(The above) is a copy faithfully made from the record which exists in the archives of this Court, on the day of its execution, the witnesses to the copy and the comparison, being the Senores Jose Z. Fernandez, and Don Manuel Castro.

I certify,

(Signed) DAVID SPENCE.

Filed in office March 23d, 1852.

GEO. FISHER,
Sec'y.

OFFICE OF THE BOARD OF COMMISSIONERS OF CALIFORNIA LAND CLAIMS.

SAN FRANCISCO, *May 8th*, 1852.

On this day before me Hiland Hall one of the Commissioners for ascertaining and settling private Land Claims in the State of California, came David Spence, a witness produced in behalf of the Claimant J. B. R. Cooper, whose petition is No. 124, on the Docket of the board and was duly sworn. The law agent was notified and attended.

In answer to questions put by the counsel for the claimant, the witness testified as follows:

1st Question. What is your name, age and place of residence?

Answer. My name is David Spence, my age is 53 years; I reside in Monterey, and have lived in California 28 years.

2nd Question. Are you acquainted with the Rancho called "El Sur," in the County of Monterey, and if so, say what you know of its ownership and possession.

Answer. I know the Rancho called "El Sur," situate in the County of Monterey. Juan B. Alvarado first occupied it, about the year 1831, under a provisional grant. He soon afterwards received a formal grant from Governor Figueroa. He sold it to Juan B. R. Cooper, about the year 1840. Alvarado and Cooper have occupied this land for about 20 years, they have had a house on it, and cattle and horses. Cooper occupies it at the present time, with cattle and horses,

The authorities of California always recognized the title of Alvarado, and I have never heard of any conflicting claim.

In answer to questions put by the Law Agent, the witness says that the land is so situated that it is difficult of cultivation and access. There has been a small house on the place, which has been inhabited for a number of years, but I cannot tell how long.

The whole of the land is within ten leagues of the sea coast.

D. S. SPENCE.

Sworn and subscribed before me,

HILAND HALL,
Coms'r.

Filed in office May 8th 1852.

GEO. FISHER,
Sect'y.

Jurisdiccion de Monterrie, No. 50. Ano de 1834.

(*Expediente.*)

Sobre el parage nombrado el Sur Solicitado por Dn. Juan B. Albarada. 34.

Sello Fercero: Dos Reals.

Habilitado por la Administracion de la Aduana Maritima de Monterrey para los años de mil ochocientos treinta y tres y mil ochocientos treinta y cuatro.

FIGUEROA.

JOSE RAFAEL GONZAELS.

A.

(*Expediente.*)

MONTERREY, *Mayo* 14, 1824.

Sociliticime los antecedentes, agrequente, y dese cuenta para resolver.

Sor Gefe Sup'or Politico.

El Crudadano Juan B. Alvarado veeino del P'to de Monterrey a V. S. respetuosamente me presento y digo; que en 12 de Ag'to. de 1830 dirige una instancia al gobierno Politico de este Ferritorio en solicitud de un paraje conocido en el nombre del sur que se halla al rumbo de este nombre en la costa, distante mas o'menos nueve leguas de esta Capital, á la que acomparie el dieeño correspondiente co nforme con loprevenido por el Reglamento de Colonizacion de 21 de Nov'e. de 828, y no tuvo resolucion. En 26 de Feb'o. de 831 repité mis instancias pidiendo provisionalmente la consesionin para asegurar algrenos bienes de campo: este me fue concedido por el decreto que está en la representacion que devidamente acompaño a V. S. a fin de que se sirva dar á mis solicitudes el giro que tenga á bien para adquiro la propiedad de dicho Sitio en que a la vez mantengo de mi pertenencia el numero de mas de trescientos cabezas de ganado mayor y cerca de ciento de caballos con fabrica de casa y corrales. Por tanto.

A. V. S. Suplico Se Sirva proveer como pido en lo que recibire gracia, jurando no ser malicia, y lo necesario &c.

Monterey, 14 de Mayo, de 1834.

JUAN B. ALVARADO.

Sello 4o. una quartilla.

Havilitado provicionalmento por la come saria subalterna del pto de Monterrey, pa los as de 1831, y 1832.

GOMEZ.

Monterey, *Febo.* 27, *de* 1831.

Peude el interesa do occupar el Terreno qe pretende siempre qe con particularidad sea pa establecer y conservarlo bien cultivado; en el concepto qe sera provision'mte segun solicita hasta la resolucion de la instancia qe manifiesta tener pendiente.

Sor Ge Sup'or Polito.

El Cindadano Juañ Bauta Alvarado, a V. S. respetuosamente me presente y digo: Que hariendo dirijido en el año P. P. do al Gob'no Sup'or de este Territo, una solicitua en conformidad de las leyes de Colonizacion pretendiendo hard fomentar an terreno raldio llamado El Sur, que esta al rumbo de este nombre eu la costa distante de este Pres'o mas ó menos quince leguas; y como vada resolvio el Gob'no sobre este asonts, me dirijo a V. S. para qe se sirva si en contrare conveniente permitirme provicionalmente la concesion de él; y quedando yo sujeto á la resolucion qe hubiere de mi anterior representacion. Por tanto de la consideracion de V. S. espero el resultado mas favorable eu lo que recivire gracia. Juro &c.

Monterey, 26 de Febo. de 1831.

JUAN B. ALVARADO.

Sello 4o. una quartilla.

Habilitado provisionalmente por la Comisaria subalterna interina del Puerto de Monterey, pa el Año de 1830.

CASARIN.

ECHEANDIA.

Sor Gefe Sup'or Politico.

El Cindadano. Juan Bautista Alvarado, en la mejor forma me presente y digo: que haviends dirijido a V. S. anteriormente una solicitud pidiendo para cultivar y formentar el sitio llamado el Foro que está eu las inmediaciones de este Presidio. Estoy entendido en que la Exma Deputacion ha vesti nado este terreno para el mantenimiento de la Caballerias de la compania de este Presidio, como siempre ha estado. Ental virtud represento a V. S. de nuevo refiriendome á mi anterior solicitud pidiendo el parage llamado el sud que esta al mismo rumbo, distante de este Presidio mas ó menos dier y seis Leguas por la costa á cuyo effecto accompaño á V. S. el diceño correspondients qe proviene el art'o 2o del Reglamento de Colonizacion de 24 de Noviembre de 1828. Por tanto. A V. S. suplice se sina acceder a esta mi peticion si lo encontrare justo.

Monterrey, 12 de Ag'to, de 1830.

JUAN B. ALVARADO.

(*For map, see original page* 29.)

Sello Fercero Dos Reals.

Habilitado por la administracion de la Aduana Maritima de Monterrey para los años de ocho cientos treinta y cuatro y mil ocho cientos treinta y cinco.

FIGUEROA.

RAFAEL GONZALES.

Monterrey, *Mayo* 16, *de* 1834.

De conformidad con las leyes de la materia informe el Ylustre Ayuntamiento de esta Capital si el interesado en esta instancia obtiene los requisitos prevenido para ser atendido en su solicitud se el terreno que pretende esta comprendido en las veinte leguas limitrofes o diez litorales que espresa la ley de 18 de Agosto de 1824, si es de regadio temporal o abrevadero, y pertenea a propiedad de algun particular, corporacion Mision o Public con todo lo demas que crea conducente á ilustrar la matenà. Evacuado que sea pasara este espediente al R. P. Ministro de la Mision de San Carlos para que espanga lo que le ocurra y devolvera este espediente. El Sor. D. Jose Figuerora, general de Brigada, Coman dante gen'l Gefe Superior Politico del Territño de la Alta California asi lo mando, decrito y firmo de que doy fé.

FIGUEROA.

AGUSTIN V. ZAMORANO,
S'rio.

En sesion de este dia se dió cuenta al y. Ayuntamiento con el presente espediente y se mandó pasar á la Comision de Colonizacion y terrenos valdois.

Monterrey, 31 de Mayo, 1834.

JOSÉ MARIA MALDONADO.

Sor Gefe Superior Politico.

El Y. Ayuntamiento de esta Capital con el objeto de dar á V. S. el informe que se siror pedir en su superior decreto de 15 del pip'do pasó la presente solicitud á la Comision permanente de Colonizacion y terrenos valdios quien presentó en Sesion de hoy el dictamen que se mando agregar a este espediente y como su contenido es lo qe en el particular deve informar esta corporacion lo reproduce entodas sus partes.

Monterrey, Junio 7, de 1834.

MANUEL TIMENO,
Casarin.
JOSE MARIA MALDONADO.
V. Secreto.

Sello Fercero Dos Reales.

Habilitado provicionalmena por la Administracion de la Aduana Maritima de Monterrey para los anos de mil ochocientos treinta y cuatoo y mil ochocientos treinta y cinco.

FIGUEROA.

RAFAEL GONZALES.

Y. Ayuntamiento.

La Comision encargada de Colonizacion y terrenos valdios, a bisto la solicitud que promuebe el Cindadano Juan Bantista Alvarado, relativa ha que sele conceda en prapiedad el paraje nombrado el Sur y en cumplimiento del Superior Decreto acompanatorio, dicta mina la Comision qe el solicitante, es Cindadano Meseicano por nacimienta, en el egersio de sus derechos lo que le da, todos los requisitos que exige la Ley el terreno pretendido no esta comprendido en la veinte lequas Simitrofes y si en las dies Litorales qe expresa la Ley de 18 de Agosto de 1824, es de temporal y abrevadero, no pertenece á propiedad particular ni Pueblo, à reconocidece por baldio y dista de la mision de Sn. Carlos de siete a ocho lequas, por cuyo motivo la Comision ofrece a la deliberacion de esta Y. Corporacion las siguientes proposiciones.

1a. Puede adjudicarsele al Cindadano Juan Bantista Alvarado el parage pretendido nombrado el Sur, por to do lo arriva expuesto.

2a. Que para dar cumplimien al sitado decreto pase este espediente al R. P. de dicha Micion.

Monterrey, 7 de Junio, de 1834.

JOSE ANTONIO ROMERO.

JOSE AGUILA.

Impuesto del espediente q. V. me dirige pa. qe exponga lo qe haycree de justicia digo, qe el citio qe pretiende el Co. Bantista Albarado es el mejor qe tiene esta Micion pa. asegurar sus ganados Mayor y Cabayada. Por lo qe suplico á V. S. á nombre de todo: los Neofitos de esta Micion, no solo no se les qinte huna propiedad qe diaramte. estan reclamando, y á qe tienen tanto derecho, sine qe implorando de V. S. Aquella Justicia con qe procura y trabaja tanto en hacerles felices, piden se les desocupe con la mayor brevedad pa. la asegurancia de sus bienes.

Lopongo en conocimiento á V. S. pa. los fines indicados, y reiterando mi Suplica á nombre de estos infelices qe se ven desgraciados y sin poder defender sus propiedades. Se digne obrar en la meteria segun el celo qe le caracteriza.

Sn. Carlos, Junio 26, de 824.

Fr. Je Ate del Refug O'Zs del Real.

Sello Fercero Dos Reales.

Habilitado provicionalmente por la administration de la Aduana Maritima de Monterrey para los anos de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

FIGUEROA.

RAFAEL GONZALES.

MONTEREY, *July* 3, *de* 1834.

Pase a'l Alcalde este Capital ante quien la parte de D. Juan Bantista Alvarado produsera una informacion de tres testigos indionos que seran interrogados sobre los puntos siguientes. 1o. Si el solicitante es Mejicano por nacimiento si es casado y tiene hijos, si es de buena conducta. 2o. Si el terreno que pretende pertenece á la propiedad de algun particular, Mision, Pueblo ó ocupacion si es de regadio, temporal ó abrevadero, y que estencion tendra. 3o. Si tiene bienes de campo con que poblarlo ó posibilidad de adquirirlos. Evacuadas estas diligencias vuelva el espediente para su resolucion.

El Señor D. Jose Figueroa, General de Brigada Comandante general Ynspector y Gefe Superior Politico de la Alta California asé lo mandó y firmó a que doy fé.

JOSE FIGUEROA.

AUGUSTIN V. ZAMORANO,
S'rio.

MONTERREY, *Julio* 18 *de* 1834.

En cumplimeento del sup'r decreto que antecede del Sor. Gefe Politico de fha. 30 delppdo. mes, tomase la informacion de tres testigos idioneos, que seran interregalos sobre los tres puntos quemenciona dicho sup'r decreto.

Ase yo el Alcalde Constitucional lo decreto mande yfermé con los

de mi asistencia con quienes activo en la forma establecida. Doy Feé.
MANUEL JIMENS,
Casarin.
de Ass'a. BONIFACIO DE MADARIOGA.
de Ass'a. JOSE AGUILA.

En la fhâ presente D'n. Juan B. Alvarado parte en este asunto se le notificó el anto que antecede y entendido dijo que la oye y firmó, conmigo y los testigos de asist'a.
Casarin JUAN B. ALVARADO,
JOSE AGUILA, BONIFACIO DE MADARIOGA.

Sello Tercero Dos Reales.

Habilitado provisionalmente por la Administracion de la Aduana Maritima de Monterrey para los anos de mil ochocientos treinta y cuatro y mil ocho cientos trenita y cinco.
RAFAEL GONZALES FIGUEROA.

En la fhā. presente D'n. Jose Castro se le recibio Juramento en la forma devida por el cual ofreciò desir verdad en lo que supiera y fuera preguntado y siendolo por su nombre estado edad empleo Patria y Religion, Dijo: llamarse como queda dicho casado de veinta y sies años Labrador natural de la Mision de la soledad y C. A. R.

Ynterregado, sobre los puntos que menciona el superior decreto del sor Gefe Politico de phā. 3, del corriente Dijo: Que conoce á D'n. Juan B. Alvarado que es Mejicano por nacimento soltero y es de buena conducta, que tambien conoce el terreno que pretende dicho Alvarado y no pertenece á la propiedad de ningun particular Mision Pueblo y ni á corporacion ninguna, que solam'te. los Padres de la Micion de San Carlos dieen que pertenea dicho terreno á dicha Micion pero que nunco lo ha ocupado, que el espresado terreno es de regadio temporal y abrevadero y que tendra poco mas ó menas de dos leguas y midio de longitud, y de lantitud como media legua que ultimamente que el mencionado D'n. Juan B. Alvarado tiene bienes de campo con que poblarlo elrepetido terreno, que todo lo dicho es la verdad bajo cargo del juram'to que tiene hecho en el que se afirmó y ratificó leida que le fue esta su declaracion y firmo conmigo y los testegos de asist'a.
Casarin JOSE CASTRO.

JOSE AGUILA,
BONIFACIO DE MADARIAGA.

En la fhā. presente D'n. Ramon Estrada se le recibio juramento en la forma devida por el cual ofrcció deur verdad en lo qr supiera y fuera preguntado y siendo por su nombre estado edad emplio Patria y religion, dijo: llamarse como queda dicho que es soltero de veinte y cuatro años Comerciante natural de este Puerto de Monterrey y C. A. R.

Ynterrogado sobre los tres puntos que menciona dicho sup'r decreto del s'or Gefe Politico de fhā. 3 del Corriente dijo: que conoce a D'n. Juan B. Alvarado que es Mejicano por nacim'to soltero y de buena conducta: que tambien conose el terreno que solicita y no pertenece á la propridad de ningun particular Mision Pueblo y in á corporacion ninguna, que dungue se dice que se reconoce por de la mision de San Carlos pero que nunca lo ha ocupado, y dista de dicha Mision como seis ó ocho leguas, qùe el espresado terreno es de regadio temporal y abrevadero y qùe tendra poco mas ó menos de longitud dos leguas y media, y de latitud como medio legua, que el espresado D'n. Juan B. Alvarado tiene bienes de campo con que poblar elrepetido terreno, que lo dicho es la verdad ha cargo deljuramento que tiene hecho en el que se afirmo y ratificó leido que le fue esta su declaracion y firmó conmigo y los testigos de asist'a.

Casarin JOSE A. ESTRADA.

JOSE AGUILA,
BONIFACIO GD MADARIAGA.

En la fhā. presente el vecino Juan Alvirez se le recibió juram'to en toda forma de derecho por el cual ofreció decir verdad en lo que supiere y P Puguntado y siendole por su nombre estado edad empleo Patria y Religion Dijo: llamarse como dicho Casado de cuarenta y años, labrador natural del Pueblo San Jose Guadalupe en este Ferritorió y C. A. R.

Ynterrogado sobre los tres puntos que menciona elrepetido sup'r decreto del S'r Gefe Politico de fhā. 3 del corriente dijo: Qur conoce á D'n. Juan B. Alvarado, que es Mejicano por nacim'to soltero y de buena conducta que tambien conose el terreno que solicita y no pertenece á la propiedad de ningun particular Mision Pueblo y ni ha corporacion ninguna, que aungue se dise que pertenece a la mision de San Carlos pero que nunca lo ha ocupado, que el espresado terreno es de regadio temporal y abrevadero y que tendra de longitud dos leguas y media, y de latitud como media legua, que ultimam'te elrepetido D'n. Juan B. Alvarado tiene bienes de Campo con que Poblar el mencionado terreno. Que lo dicho es verdad ha cargo del Juram'to que le fue esta su declaracion y firmo conmigo y los testigos de asist'a.

Casarin JUAN ALVIREZ.
De Ass'a BONIFACIO DE MADARIAGA.

MONTERREY, *Julio* 18, *de* 1834.

Concluidas las anteced'tes deligencias vuelva el espid'te al sor Gefe Sup'r Politico p'a su resolucion. Asi yo el Alcalde Constitucional lo decreté mande y firme con los de mi asist'a.

MANUEL JIMENO,
Casarin.

De Ass'a BONIFACIO DE MADARIAGA.
De Ass'a YGNACIO DEL VALLE.

MONTERREY, *Julio* 30 *de* 1834

Vista la peticion con que da principio este espediente el informe de la autoridad municipal, de esta Capital, el del Padre Ministro de la mision de San Carlos, la esposicion de testigos con todo lo demas que se tubo presente y ver convino de conformidad con lo dispuesto por las leyes y reglamentos de la materia, se declara al Ciudano Juan Bantista Alvarado dueno en propiedad del terreno conosido con el nombre del Sur, colindante con la Mision de San Carlos, la Sierra y la Costa al mar, Sugeto á las condiciones que se estipularen: dirijase este espediente a la Exm'a Diputacion Ferritorial para su aprobacion.

El Senor D. Jose Figueroa General de Brigada, Comandante general, Ynspector y Gefe Superior Politico de la Alta California asé lo mando, decretó y firmó de que doy fe.

JOSE FIGUEROA,
AGUSTIN V. ZAMORANO,
Sierô.

MONTERREY, *Julio* 31, *de* 1834.

En sesion de este dia acordo la E. Diputacion pase este espediente á las Comisiones tenidas de Colonizacion y terrenos Valdios.

FIGUERGA, JOSE MARIA MALDONADO,
Seirŏ.

Exmo Sor.

Las Comisiones unidas de Colonizacion y terrenos valdios aquienes se paso el espediente cullo formasion provocó por pretention q'e C'no. Juan Bantista Alvarado hiso del terreno nombrado el Sur, a bisto la Comision q'e en todo cuanto en el sea practicado á sido conforme con la Sey de 18 de Ag'to de 1824 y el articulo 50 del Reglam'to de 21 de Dbrê de 1828. Poslo dicho concluye la Comision ofreciendo á la deliberacion de esta Exmã. Diputacion la siguiente proposicion.

Se aprueba la consesion echa al C'no. Juan Bantista Albarado del Ferreno nombrado el Sur consedido en 30 de Julio de 1834.

MONTERREY, *Agosto* 1*o*, *de* 2834.

JOSE F. ORTEGA, CARLOS ANT'O CARRILLO.
JOSE A. ESTUDILLO.

Dada cuenta á la E. Diputacion en sesion de este dia con el antecedente dictamen, aprovo la proposicion en q'e concluye q'e dice.

"Se aprueva la consesion hecha al C. Juan B. Alvarado del terreno nombrado el Sur, concedido en 30 de Julio de 1834."

Y en su consecuen cia se devuelve este espediente al S. Gefe Sup'r Politico para su curso.

Monterrey, Agosto 1o, de 1834.

JOSE FIGUEROA.

JOSE MARIA MALDONADO,
Serio.

MONTERREY, *Setiembre* 30, *de* 1834.

En vista del acuerdo de la Cæm'a Diputacion Ferritoral del dia 1o de Agosto ultimo, en confirmacion del terreno nomtraro el Sur pretendido por De Juan Bantista Alvarado; librese el Fitulo respectivo, Forro razon de en el Libro á que corresponde y entreguesele al interesado para su resguardo y demas. El Sor. D. Jose Figueroa general de Brigade Comandante general Ynspector y Gefe Superior Politico del Terrtoriò de la Alta California, asi lo mandó decritó y firmó de que doy fé.

JOSE FIGUEROA.

AGUSTIN V. ZAMORANO,
Serio.

Jose Figueroa, General de Brigada de la Rep'ca Mexicana Comandante general Ynspector y Gefe Superior Politico del Territorio de la Alta California.

Por cuanto D. Juan B'ta Alvarado Mejicano por nacimiento ha pretendido para su beneficio prsonale y el de su familia el Ferreno conocido con el nombre del Sur colindante con la Misión de S. Carlos, la sierra y la costa; practicadas previamente las déligencias y averiguaciones consernientes segun lo disp'to por leyes y Reglamentor usando de las facultades que mo son conferidas y de conformidad con el acuerdo de la Exm'a Diputacion Territorial del dia 1o de Agosto, ult'o, aprovando la concesion del citado terreno del Sur echa en 30 de Julio del presente año al refindo D. Juan B. Alvarado, á nombre de la Nacion Mejicana he venido en conferirle el terreno mencionado p'r las presentes letras declarandole la propiedad de el, sujeto a las condiciones siguientes.

1a. Que se sometera a las q'e estableciere el reglamento q'e se ha de formar para la distribucion de terrenos valdeos y q'e entre tanto ni el agraciado ni sus herederas podran dividir ni enagenar el q'e se le adjudica; imponer senso vinculo fionza hipoteca ni otre gravauren aunque sea por ceusa piadosa ni pusarlo á manor muertas.

2a. Podra cercarlo sin per perjudicar las travesias, caminos y serbidurribres. Lo disfrutara libre y esclusivamente distinandolo al uso ú cultivo q'e mas le acmode; pa. dentro de un año á lo mas fabricara casa y estara habitada.

3a. Solicitara del Juez respectivo que le de posesion Juridica en virtud de este despacho p'r el cual se demarcuranlos linderos en cuyos limites pondra á mas de las mohoneras algunos arboles frutales ó silvestres de alguna utilidad.

4a. El terreno de que se hace mencion es de dos sitios de ganado mayor poco mas ó menos segun esplica el diceno qe. corre en el espediente; El juez q'e diere la posesion lo hará medir conforme á ordenanza pa. señalar los linderos que dando el sobrante que resulta á la Nacion pa. los usos convenientes.

5a. Si contraviniere á estas condiciones perdera su derecha al terreno y sera denunciable p'r otro.

En consecuencia mando q'e temindose p'r firme y valedero este titulo setome razon de el en el Libro a q'e corresponde y se entregue al intere sado pa. su resguardo y demas fines.

Dado en Monterrey á 30 de Sep'e de 1834.

JOSE FIGUEROA.

AGUSTIN V. ZAMORANO.

Office of the Surveyor General of the United States, for California.

I, Samuel D. King, Surveyor General of the United States, for the State of California, and as such now having in my office and under my charge and control, a portion of the Archives of the former Spanish and Mexican territory, or department of Upper California, do hereby certify, that the twenty-three preceding and hereunto annexed pages of trading paper, numbered from one to twenty-three inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain documents on file, and forming part of the said archives in this office.

[S. D. K.] In testimoney whereof, I have hereunto subscribed my name officially, and affixed my private seal, (not having a seal of office) at the city of San Francisco, California, this twenty-eighth day of February, A. D. 1852.

SAM'L D. KING,
Sur'r Gen'l Cal.

Filed in office, March 23d, 1852.

GEO. FISHER.
Sec'y.

[*B. Translation of Expediente A.*]

Stamp Third—Two Reals.

Provisionally authorized by the administration of the Maritime Custom House of Monterey, for the years one thousand eight hundred and thirty-three, and one thousand eight hundred and thirty-four.

(Signed) FIGUEROA.
(Signed) JOSE RAFAEL GONZALES.

MONTEREY, *May 14th*, 1834.

Let information be collected, attached hereto and reported upon that I may decide.

(Rubric of Figueroa.)

TO HIS EXCELLENCY THE SUPERIOR POLITICAL CHIEF:

I, citizen, Juan B. Alvarado, resident of the port of Monterey, before your Honor, respectfully appear and represent, that on the 12th of August, 1830, I directed a petition to the Political Government of this Territory, regulating a place known by the name of "El Sur," which is situated on the coast in a southerly direction, distant nine leagues, more or less, from this capitol, with which I transmitted the corresponding map, in conformity with the requirements of the regulation of colonization of the 21st of November, 1828, and I had no decision upon it.

On the 26th of February, 1831, I repeated my request praying for the grant provisionally, for the purpose of securing some live stock; this was granted to me by the decree which is included in the representation which I duly transmit to your Honor, that you may be pleased to give to my aforesaid petitions, that direction which you may see fit; in order to acquire the ownership of said place, in which I, at this time, maintain more than three hundred head of large cattle, and nearly an hundred horses, all my own property, and have built a house and pens.

Therefore I pray your Honor have the goodness to direct as I request, by which I will receive favour, making oath that I do not act from malice, and whatever else may be necessary, &c.

Monterey, May 14th, 1834.

(Signed) JUAN B. ALVARADO.

Stamp Fourth—One Quartilla.

Provisionally authorized by the subaltern commissariat of the Port of Monterey, for the years 1831 and 1832.

(Signed) GOMEZ.

(Rubrick of Victoria.

MONTEREY, *Feb'y 27th*, 1831.

The person interested may occupy the lands he petitions for, it being always understood that is for the purpose of planting it, and keeping it well cultivated, the grant being provisional, as he requests, until the petition which he shows to be still pending is decided.

(Signed) VICTORIA.

TO HIS HONOR THE SUPERIOR POLITICAL CHIEF:

I, citizen, Juan Bantista Alvarado, before your Honor, respectfully appear and say, that having last year directed to the Superior Government of this Territory, a petition in conformity with the laws of Colo-

nization, requesting for the purpose of improving it, a vacant land called "El Sur," situated on the coast, distant fifteen leagues, more or less, from this Presidio to the south, and as the Government made no decision in the matter, I turn to your Honor, that you would be pleased, if you should think it proper to grant to me provisionally, I remaining subject to the decision which may be made on my former representation.

I, therefore, expect from your Honor's consideration, the most favorable result, by which I will receive a favour. I swear, &c.

Monterey, February 26th, 1831.

(Signed) JUAN B. ALVARADO.

Stamp Fourth—One Cuartilla.

Provisionally authorized by the subaltern commissariat ad interim, of the Port of Monterey, for the year 1830.

(Signed) ECHEANDIA.
(Signed) CASARIN.

To His Honor the Superior Political Chief:

I, citizen, Juan B. Alvarado, in the most proper manner appear represent; that having previously directed a petition to your Honor, asking for the place called "*El Toro*," in the neighborhood of this Presidio, for the purpose of cultivating and improving it; I now understand that the most Excellent Deputation has set apart this land for the maintenance of the horses of this company of this Presidio, as it has been, such being the case. I again make representation to your Honor referring to my former petition, and ask for the place called "El Sur," which is to the south of this Presidio, distance sixteen leagues, more or less, on the coast, for which purpose I transmit herewith to your Honor the corresponding map, as required by act 2d of the regulation of colinization of November 24th, 1828.

Therefore, I pray your Honor have the goodness to accede to my petition, if you think it just.

Monterey, August 12th, 1830.

(Signed) JUAN BANTISTA ALVARADO.

Stamp Third—Two Reales.

Provisionally authorized by the Maritime Custom House of Monterey, for the years one thousand eight hundred and thirty-four, and one thousand eight hundred and thirty-five.

(Signed) FIGUEROA.
(Signed) RAFAEL GONZALES.

Monterey, *May* 16*th*, 1834.

In conformity with the laws on the matter, let the Illustrious Aquntamiento of this capitol report whether the person interested in this petition possess the requisite qualifications to entitle his request to be attended to, whether the land which he asks for is included in

the twenty leagues from the boundary, or ten leagues from the sea shore, mentioned in the law of August 18th, 1824, whether it is irrigable land, or subject to the seasons, or pasture land, whether it is the property of any individual corporation, mission or Pueblo, and anything else which help to explain the matter. This being concluded, the expediente will be passed to the Rev. Father, Minister of the Mission San Carlos, that he may report what he knows, and return this expediente, Senor Don Jose Figueroa, General of Brigade, commanding General and Superior Political Chief of Upper California, thus ordered, decreed and signed, to which I certify.

(Signed) JOSÉ FIGUEROA.
(Signed) AGUSTIN V. ZAMORANO,
Secretary.

In Session of this day the present Espediente was reported to the Illustrious Ayuntamiento, and was ordered to be passed to the Committee of Colonization and vacant lands.

Monterey, May 31st, 1834.

(Signed,) JOSE MARIA MALDONADO.
Secretary.

To His Honor the Superior Political Chief.

The Illustrious Ayuntamiento of this Capital, for the purpose of giving your Honor the information which you were pleased to request in your Superior Decree of the 16th ultimo, referred the present petition to the Standing Committee on Colonization and vacant lands, which in session of this day presented the Report which was ordered to be attached to this Expediente, and as it contains all the information which this body can give on the subject, it is transmitted entire.

Monterey, June 7th, 1834.

(Signed,) MANUEL JIMENO.
Casarin.
(Signed,) JOSE MARIA MALDONADO.
Secretary.

To the Illustrious Ayuntamiento.

The Committee on Colonization and vacant lands has seen the Petition put forward by the Citizen Juan Bantista Alvarado, requesting that the place named the "Sur" be granted to him in fee, and in compliance with the Superior Decree accompanying it, the Committee reports that the petitioner is by birth a Mexican Citizen, in the exercise of his rights, which gives him the qualifications required by law: the land petitioned for is not included in the twenty leagues, from the Boundary, but is within the Sea Shore, specified in the law of August 18th, 1824: it is depending on the seasons and pasture land, belongs to no individual or pueblo, and has been recognized as vacant; it is

from seven to eight leagues distant from the Mission of San Carlos. The Committee therefore present the following propositions for the decision of this Illustrious Corporation.

1st. For the above reasons, the place petitioned for, named "*El Sur*," may be granted to Citizen Juan Bantista Alvarado.

2d. In compliance with the Decree above referred to, let this Espediente be passed to the Rev. Father of said Mission.

Monterey, June 7th, 1834.

(Signed,) JOSE AGUILAR,
(Signed,) JOSE ANTONIO ROMERO.

Having examined the Expediente which has been referred to me to report that which I might think just, I represent that the place which Citizen Bantista Alvarado petitions for, is the best which this Mission has for keeping large cattle, and horses.

Wherefore I pray your Honor in the name of all the Neophites of this mission, not only that a property which they are daily claiming and to which they are so much entitled should not be taken from them but imploring that justice with which your Honor labor and endeavour to make them happy, they pray that the occupation of it be given up to them as soon as possible. I make this known to your Honor for the aforesaid purpose, and reiterate my request in the name of these poor people, who are degraded and without power to defend their property, That you would have the goodness to act in the matter with your characteristic zeal.

San Carlos, June 26th, 1834.

(Signed,) JOSÉ MARIA DEL REFUGIO.
ZACCHARIAS DEL REATJNY.

Stamp Third, Two Reals.

Provisionally authorised by the administration of the maritime Custom House of Monterey for the years One Thousand Eight Hundred and Thirty-four, and One Thousand Eight Hundred and Thirty-five.

(Signed,) FIGUEROA.
(Signed.) RAFAEL GONZALES.

MONTEREY, *July* 3*d*, 1834.

Refer this to the Alcalde of this Capitol, before whom Don Juan Bantista Alvarado will produce information of three competent witnesses, who will be interrogated upon the following points: 1st. Whether the petitioner is a Mexican by birth, Whether he is married and has children, and if his conduct is good. 2d. Whether the land petitioned for belongs to any individual, mission, pueblo, or Corporation, whether it is irrigable, depending upon the seasons, or pasture land, and what is the extent of it. 3d. Whether he has live stock sufficient to occupy it, or a possibility of acquiring enough. These examinations

being finished, let this Espediente be returned that it may be acted upon.

Senor Don Jose Figueroa, General of Brigade, Commanding General, Inspector, and Superior Political Chief of Upper California, thus ordered, decreed, and signed, to which I certify.

(Signed,) JOSE FIGUERO \.
(Signed,) AUGUSTIN N. ZAMORANO.
Secretary.

MONTEREY, *July 10th*, 1834.

In compliance with the foregoing Superior Decree of his Honor the Political Chief, dated the 3d of last month, let the information be taken of three competent persons, who will be questioned on the three points mentioned in said Superior Decree, I the Constitutional Alcalde thus decreed, ordered, and signed with those of my assistance, with whom I act in the established form, I certify.

(Signed,) MANUEL JIMENO CASARIN.
Assisting Witnesses.
(Signed,) JOSE AGUILAR.
(Signed,) BONIFACIO DE MADRIAGA.

On the same day, present Don Juan B. Alvarado, the party (interested) in this matter, he was notified of the preceding decree, and he acknowledge notice, and signed with me and the assisting witnesses.

(Signed) CASARIN.
(Signed) JUAN B. ALVARADO.
(Signed) JOSÉ AGUILAR.
(Signed) BONIFACIO DE MADRIAGA.

On the same day present Don Jose Castro, his oath was taken in due form, by which he promised to speak truth, in all that he might be asked and know; and having been asked his name, state, age, occupation, country, and religion, he answered: His name is as has been stated, he is married, twenty-six years old, a laborer, native of the mission of La Soledad, (his religion) the Apostolic Romon Catholic. Questioned upon the three points mentioned in the Superior Decree of His Honor, the Political Chief, dated the third instant: Answer—He is acquainted with Don Juan B. Alvarado, he is a Mexican by birth, unmarried, and of good conduct: he also knows the land which said Alvarado petitions for; it does not belong to any individual, mission, pueblo, or corporation, except that the fathers of the Mission of San Carlos say that the said land belongs to that Mission, but they have never occupied it: the land is irrigable, depending upon the seasons and pasture land; it is two and a half leagues long, (more or less) and about half a league wide; and finally, that Don Juan B. Alvarado owns live stock sufficient to occupy the aforesaid land, that all that he has said is true under the oath which he has taken, and testifies, and

this his declaration being read to him, he ratified it, and signed with me and the assisting witnesses.

(Signed) CASARIN.
(Signed) JOSE CASTRO.
(Signed) JOSÉ AGUILAR.
(Signed) BONIFACIO DE MADARIAGA.

On the same day, Don Ramon Estrada being present, his oath was taken in due form, by which he promised to speak the trnth, in all that he might be asked and know, and being asked his name, state, age, occupation, country, and religion, he answered: His name is as has been stated, he is unmarried, twenty-four years of age, a merchant, native of this port of Monterey, (his religion) the Apostolic Roman Catholic. Questioned upon the three points mentioned in said Superior Decree of His Honor, the Political Chief, of the 3rd instant: Answer —He is acquainted with Don Juan B. Alvarado, he is a Mexican by birth, unmarried, of good conduct: he also knows the land which he requests, and it does not belong to any individual, mission, pueblo, or corporation; that although it is said to be recognised as belonging to the Mission of San Carlos, it has never been occupied by the Mission; it is about seven or eight leagues distant from that Mission; the land is irrigable, depending on the season and pasture land, its length is two and a half leagues, a little more or less, its breadth about half a league, and that the aforesaid Don Juan Alvarado has live stock with which to occupy it, that all that he has said is true under the oath which he has taken, which declaration being (being) read to him, he affirms and ratifies it, and signed with me and the assisting witnesses.

(Signed) CASARIN.
(Signed) JOSE R. ESTRADA.
(Signed) JOSE AGUILAR.
(Signed) BONIFACIO DE MADRIAGA.

On the same day, present the resident Juan Alvires, his oath was taken in due form of law, by which he promised to speak the truth in all that he might be asked and know, and being questioned as to his name, state, age, occupation, country, and religion, he answered: His name is as has been stated, he is married, forty-one years of age, a laborer, native of the Pueblo of San José Guadalupe in this Territory, (his religion) Apostolic Roman Catholic. Questioned upon the three points mentioned in the aforesaid Superior Decree of His Honor, the Political Chief, of the 3rd. instant. Answer:—He is acquainted with Don Juan B. Alvarado, he is a Mexican by birth, is unmarried, and of good conduct: He also knows the land petitioned for, and that it does not belong to any individual, mission, pueblo, or corporation, that although it is said to belong to the Mission of San Carlos, it has never occupied it; the said is irrigable, depending on the seasons and pasture land; that its length is two and a half leagues, its breadth

about half a league; and finally, Don Juan B. Alvarado has cattle enough to stock the aforesaid land: that all that he has said is true under the oath which he has taken, which declaration being read to him, he affirms and ratifies it and signed with me and the assisting witnesses.

(Signed) CASARIN.
(Signed) JUAN ALVIRES.

Assisting Witness.

(Signed) BONIFACIO DE MADARIAGA.

MONTEREY, *July* 18*th.* 1834.

The foregoing examinations being finished, let the Espediente be returned to His Honor, the Superior Political Chief, for his decision.

I, the Constitutional Alcade, thus decreed, ordered, and signed, with those of my assistance.

(Signed) MANUEL JIMENO CASARIN.

Assisting Witnesses.

(Signed) IGNACIO DEL VALLE.
(Signed) BONIFACIO DE MADRIAGA.

MONTEREY, *July* 30*th.* 1834.

Having seen the petition with which this Expediente commences, the report of the municipal authority of this Capital, that of the Father minister of the Mission of San Carlos, the depositions of witnesses, with all other things which were represented and deemed proper to be considered, in conformity with the requirements of the laws and regulations on the matter, citizen Juan Bantista Alvarado is declared owner in fee of the land known by the name of "El Sur," bounded by the Mission of San Carlos, the Sierra and the Sea, subject to the conditions which may be stipulated.

Let this Expediente be passed to the most Excellent Territorial Deputation for its approval.

Señor Don José Figueroa, General of Brigade, Commanding General, Inspector and Governor of Upper California, thus ordered, decreed, and signed, to which I certify.

(Signed) JOSÉ FIGUEROA.
(Signed) AGUSTIN V. TAMORANO,
Secretary.

MONTEREY, July 31st, 1834.

In session of this day the Excellent Deputation resolved that this Espediente be passed to the joint committees on colonization and vacant lands.

(Signed) FIGUEROA,
(Signed) JOSE MA MALDONADO,
Secretary.

To His Excellency.

The joint committees on colonization and vacant lands to whom was referred the Espediente, the formation of which was caused by the application of citizen Juan Bantista Alvarado for the land named "*El Sur*," have seen that every thing that has been done, is in conformity with the law of August 18th, 1824, and article 5th of the Regulation of November 21st, 1828. They therefore reporting for the decision of this most Excellent Deputation, the following proposition.

They approved the grant made to citizen Juan Bantista Alvarado of the land named "*El Sur*," granted on the 30th of July, 1834.

(Signed.) CARLOS ANTONIO CAÑILLO,
(Signed.) JOSÉ J. ORTEGA,
(Signed.) JOSÉ A. ESTUDILLO.

Monterey, August 1st 1834.

The following decision having been reported to the Excellent Deputation in session of this day, the proposition with which it concludes was approved as follows:

"They" approve of the grant made to citizen Juan B. Alvarado, of the land named "*El Sur*," granted on the 30th of July, 1834.

And in consequence this Espediente is returned to His Honor, the Superior Political Chief for his direction.

(Signed.) JOSÉ FIGUEROA,
(Signed.) JOSE MA MALDONADO,
Secretary.

Monterey, August 1st, 1834.

Stamp Third, Two Reals.

Provisionally authorized by the administration of the Maritime Custom House of Monterey, for the years one thousand eight hundred and thirty-four, and one thousand eight hundred and thirty-five.

(Signed.) FIGUEROA.
(Signed.) RAFAEL GONZALES.

Monterey, September 30th, 1834.

In view of the resolution of the Most Excellent Territorial Deputation of the 1st of August last, confirming the land named "*El Sur*," asked for by D. Juan Bantista Alvarado, let the proper title be issued, let note be made of it in the corresponding Book, and let it be delivered to the party interested for his security and other purposes.

Señor Don José Figueroa, General of Brigade, Commanding General Inspector, and Superior Political Chief of the Territory of Upper California, thus ordered, decreed, and signed, to which I certify.

(Signed.) JOSÉ FIGUEROA.
(Signed.) AGUSTIN V. ZAMORANI,
Secretary.

José Figueroa, General of Brigade of the Mexican Republic, Commanding General Inspecter, and Superior Political Chief of the Territory of Upper California.

Whereas, Don Juan Bantista Alvarado, a Mexican by birth, has, for his own personal benefit, and that of his family, petitioned for the land known by the name of *El Sur*, bounded by the Mission of Van Carlos by the Siena and by the Sea: the proper measures and examinations being previously made as required by laws and regulations; by virtue of the powers which are conferred on me, and in conformity with the resolution of the Most Excellent Territorial Deputation of the 1st day of August, ul'to, approving the grant of said land "El Sur," made on the 30th of July of the present year, to the aforesaid Don Juan B. Alvarado: in the name of the Mexican Nation, I have granted to him the aforesaid land, declaring to him the ownership of it, by these presents.

1st. He shall be subject to those (conditions) which may be established by the regulation which is to be formed for the distribution of vacant lands; and in the meantime, neither the grantee nor his heirs may divide or alienate that which is granted him, subject it to any tax, entail, pledge, mortgage, or other incumbrance, even for pious purposes, or convey it in mortmain.

2d. He may enclose it without prejudice to the cross roads, roads, and servitudes, and enjoy it freely and exclusively, making such use or cultivation as he may see fit, but within one year at farthest, he shall build a house on it, and it shall be inhabited.

3d. He shall request the proper magistrate to give him juridical possession in virtue of this order, by whom the bounderies will be marked, in which he shall place besides the bounds some fruit or forest trees of a useful character.

4th. The land of which mention is made is two *sitios de fanado mayor*, (two square leagues) a little more or less, as shown by the map, which goes with the Expediente. The magistrate who may give the possession will cause it to be measured in conformity with (the) ordinance for the purpose of designating the bounderies, leaving the surplus which may result, to the nation for its convenient uses.

5th. If he contravene those conditions he shall lose his right to the land and it may be denounced by another person.

In consequence I order that this title being held as firm and valid, note be made of it in the corresponding Book, and it be delivered to the party interested for his security and other purposes.

Given in Monterey on the 30th September, 1834,

(Signed.) JOSÉ FIGUEROA.

(Signed) AGUSTIN V. ZAMORANO.
Secretary.

Filed in office, March 23d, 1852.

GEO. FISHER,
Secretary.

I, Geo. Fisher, Secretary to the Board of Commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing 59 pages, numbered from 1 to 59, both inclusive, to contain a true, correct, and full Transcript from the Journal or Proceedings of said Board, of the original Depositions of witnesses, and of the Documentary evidence on file in this office, in case No. 124, John B. R. Cooper, claimant, against the United States, for a place known by the name of "El Sur."

In testimony whereof, I hereunto set my hand and affix my private seal (not having a seal of office) at San Francisco, California, this 17th day of December, A. D. 1853, and of the Independence of the United States of America the seventy-seventh.

[SEAL.]

(Signed.) GEO. FISHER,
Secretary.

UNITED STATES DISTRICT COURT.
Southern District of California.
CLERK'S OFFICE LOS ANGELES, *November* 22*d*, 1855.

I Charles E. Carr, Clerk of the District Court of the United States, for the Southern District of California, do hereby certify that the foregoing pages, numbered from 1 to both inclusive, contain a full, true and correct copy of Transcript No. 124 filed in this office, wherein J. B. R. Cooper is appellee, and the United States are appellant for "El Sur."

In testimony whereof I have hereunto set my hand and affixed the seal of said Court at Los Angeles, California, this twenty-second day of November, A. D. 1855, and of the Independence of the United States of America, the eightieth.

[SEAL.] C. E. CARR.
Clerk.

DISTRICT COURT OF THE UNITED STATES.
Southern District of California.
CLERK'S OFFICE, LOS ANGELES, *Nov.* 22*d*, 1855.

JOHN B. R. COOPER, appellee, } Docket No. 1.
ads.
THE UNITED STATES, appellants, } Transcript No. 124.

Be it remembered that in the above entitled cause on appeal to the District Court of the United States for the Southern District of California in the United States of America, from the decision of the United States Land Commissioners to ascertain and settle private land claims in California.

The following proceedings were had, to wit:

Transcript from the Board of Commissioners in said Case No. 124, on the Docket of said Board, filed and marked No. 1 on the Docket of this Court.

Filed Dec. 27th, 1853.

(*Vide* page 1.)

Notice of intention to prosecute appeal by the Attorney General of the United States. Filed June 3d, 1854.

(*Vide* page 5.)

Upon which notice the following subsequent proceedings were had in their chronolcgical order, to wit:

LOS ANGELES, *Dec. 4th*, 1854.

Petition for review by the United States District Attorney for the Southern District of California was filed.

(*Vide* page 7.)

LOS ANGELES, *March 6th*, 1855.

Answer to petition for review was filed.

(*Vide* page 11.)

LOS ANGELES, *June 13th*, 1855.

On motion of appellee (filed) it is ordered that either party may take such additional testimony as they may wish in the above cause.

(*Vide* page 13.)

LOS ANGELES, *Sept. 19th*, 1855.

On motion of Counsel it was ordered that this case be set for hearing on the 20th.

LOS ANGELES, *Sept 20th*, 1855.

This case called, and the deposition of John Temple, a witness for appellee taken in open Court, and filed in this case.

(*Vide* page 13.)

Papers referred to in above-mentioned deposition, marked "No. 1 and No. 2," with translation of No. 1, filed in this case.

(*Vide* pages 15 to 19.)

This case argued and submitted.

LOS ANGELES, *Sept. 21st*, 1855.

In this case Hon'l M. H. McAllister, delivered the opinion of the Court, confirming the claim.

Decree entered.

(*Vide* page 19.)

LOS ANGELES, *Sept. 25th*, 1855.

In the same case, motion of P. Ord, United States Attorney, for appeal to the United States Supreme Court, and order of Court.

(*Vide* page 20.)

ATTORNEY GENERAL'S OFFICE,
13th January, 1854.

JOHN B. R. COOPER, claimant,
vs.
THE UNITED STATES. } Caut 24.

You will please take notice that an appeal in the above case from the decision of the Commissioners, to ascertain and settle the private land claims in the State of California, to the District Court of the United States for the Southern District of California, will be prosecuted by the United States.

(Signed) C. CUSHING,
Attorney Gen'l.

ALEXANDER S. TAYLOR, Esq.
Clerk U. S. District Court
Southern District California.
Filed June 3d, 1854.

A. J. TAYLOR,
Clerk.

(*Petition for Review.*)

IN THE DISTRICT COURT OF THE UNITED STATES,
Southern District of California, Los Angeles County.

JOHN B. R. COOPER, Appellee
ads.
THE UNITED STATES Appellants. } No. 124.

To the Hon. ISAAC S. K. OGIER, Judge of the District Court of the United States, for the Southern District of California.

The petition of Pacificus Ord of Monterey County, attorney of the United States for the Southern District of California, who petitions in this behalf for the United States, and being present here in Court, in his proper person, in the name and in behalf of the United States, represents as follows. That heretofore to wit, on or about the 23d of March, A. D. 1852, the said John B. R. Cooper a citizen and resident of Monterey County California, presented his petition to the Commissioners, to ascertain and settle, the private land claims in the State of California, at San Francisco California, claiming a tract of land called "El Sur," lying and being in Monterey County California, of the extent of about two square leagues, in virtue of a grant, concession or title alledged to have been made by Governor Figueroa to one Juan B. Alvarado, of the date of about the 30th of September, A. D.

1834, and conveyed by said Juan B. Alvarado, to said John B. R. Cooper, on or about the 9th of December, A. D. 1840, which said grant and deed of conveyance are referred to in said petition.

That the said Commissioners after due proceedings had, upon said claim of said John B. R. Cooper, made on or about the 18th of December, 1852, a decree or report of final confirmation of said claim, to the extent of two square leagues or a less quantity in favour of said claimant.

That on or about the 27th of December, A. D. 1853, a duly certified transcript of the proceedings of said Commissioners upon said claim, was filed in the office of the clerk of the District Court of the United States, in and for the Southern District of California at Monterey, which said filing of said transcript operated as an appeal for the United States, from said decree or report of confirmation or decision of said Commissioners.

That on or about the 12th of January, A. D. 1854, a duly certified transcript of the proceedings of said Commissioners upon said claim, was received by Caleb Cushing the Attorney General of the United States.

That on or about the 18th of March, A. D. 1854, the said Caleb Cushing Attorney General of the United States, filed or caused to be filed in the said office of the clerk of the District Court of the United States, in and for the Southern District of California at Monterey, a notice of intention of the United States, to prosecute an appeal from said decree, or report of confirmation or decision of said Commissioners in favour of said claim of said John B. R. Cooper. which said notice of said Attorney General, bears the date of the 13th January, A. D. 1854.

That on or about the 3d of June, A. D. 1854, the said Caleb Cushing Attorney General of the United States, filed or caused to be filed, in said office of the clerk of the District Court of the United States, in and for the Southern District of California at Monterey, a notice of intention of the United States to prosecute an appeal from said decree or report of confirmation or decision of said Commissioners, in favour of said claim of said John B. R. Cooper, to the District Court of the United States for the Southern District of California, which said notice of said Attorney General bears the date of 13th of January, A. D. 1854.

And the said District Attorney herewith shows a certified transcript of the said decree or report of confirmation, proceedings and decision of the said Commissioners, to ascertain and settle the private land claims in California, with the evidence on which it was founded, marked 124, and alleges for and in behalf of the United States, that the said claim of said John B. R. Cooper for said land is invalid, and that said decision of said Commissioners is erroneous, on the following grounds.

1. That the said John B. R. Cooper claimant shews no valid title to the land claimed by him.

2. That the said land so claimed by said John B. R. Cooper, was and is within ten (litteral) leagues of the sea coast, and was not therefore subject to colonization or grant by Governor Figueroa, without the previous approbation of the supreme executive power, which said previous approbation is not shown by the said claimant and was not given.

3. That the said land so claimed by said John B. R. Cooper, was at the time of the date of alleged grant of Governor Figueroa occupied by the mission of San Carlos, a mission then existing in the Mexican Territory of Upper California, and was not therefore subject to colonization, or grant by Governor Figueroa.

4. That the first condition of the said alleged grant of Governor Figueroa, has been violated by the said Juan B. Alvarado in the alienation of the said land to said John B. R. Cooper—The said condition being in effect, that the said grantee should not alienete or encumber the said land in any way, until the regulations to be formed should be established for the distribution of vacant lands. Nor does the said claimant show that before the said alienation by said grantee that the regulations referred to in said first condition were established, and they were not so established.

5. That the second condition of the said alleged grant which required of the grantee, that a house should be built on the said land, and inhabited within a year was violated and not performed.

6. That the third condition of the said alleged grant which required the grantee to ask the respective Judge for judicial possession of said land, and that he should place land marks, plant fruit trees, or wild ones of utility thereon, was violated, and not performed.

7. That the fourth condition of said alleged grant which required the Justice who should give possession, to cause the land to be measured according to law, was violated and not performed.

8. That by the terms of the fifth condition of the said alleged grant, the said Juan B. Alvarado, by the said violation and non-performance of said conditions, in said grant, forfeited his right to the land, and that, therefore at the date of the said alleged transfer to said John B. R. Cooper, he the said Juan B. Alvarado, had no title in the said land, and nothing passed to the said John B. R. Cooper, by said alleged transfer.

9. That the said land alleged to have been granted to said Juan B. Alvarado, and claimed as aforesaid by said John B. R. Cooper, has never been segregated from the public lands of Mexico or the United States, and that the said land was not, and could not be lawfully occupied and possessed, under said alleged grant by said Juan B. Alvarado, or his alleged vendee, John B. R. Cooper, until the judicial possession was given, as provided in the said third and fourth conditions of the said alleged grant to said Juan B. Alvarado.

10. That the description of the land in the alleged grant, is vague and uncertain, and the description of the land in the map referred to in the said alleged grant is vague and uncertain, and does not aid

the description in the said alleged grant, but is contrary to and inconsistent therewith.

11. That the said claimant John B. R. Cooper, shows no title in himself to the two leagues of land described and alleged to have been granted to the said Juan B. Alvarado. He only shows a title from said Juan B. Alvarado for the place called "El Sur."—This description is uncertain, vague and insufficient. That the said claimant was a foreigner, and had not the capacity to acquire and hold lands in California.

And the said District Attorney alleges and shews, that the said tract of land of about two square leagues called "El Sur," claimed by the said John B. R. Cooper as aforesaid, lies in the Southern District of California, and within the jurisdiction of this Honorable Court.

Wherefore the said Pacificus Ord, Attorney of the United States for said Southern District of California, for and in behalf of the United States, by reason of the premises, and the laws and statutes in such cases made and provided, prays that this Honorable Court will review the said decision of the said Commissioners, and decide on the validity of the said claim of the said John B. R. Cooper, and that the same may be decreed invalid. And further, he prays that the said John B. R. Cooper may be served with a copy of this petition, and after due proceedings had, that the said claim of said John B. R. Cooper, for said land, may be declared invalid, or such other decrees thereupon as the said Honorable District Court shall deem just. And he further prays that the said John B. R. Cooper be condemned to pay the costs in the premises and general relief.

(Signed) P. ORD,

Attorney of the United States for the Southern District of California.

Filed Dec. 4th, 1854.

C. E. CARR,
Clerk.

A certified copy of the above petition, with summons, was served on the defendant by the U. S. Marshal, February 15th, 1855.

(*Answer to Petition.*)

IN THE DISTRICT COURT OF THE UNITED STATES,
Southern District of California. Los Angeles County.

JOHN B. R. COOPER, appellee,
ads.
THE UNITED STATES, appellants. } No. 124.

John B. R. Cooper, appellee, by Halleck, Peachy & Billings, his attorneys, appears, and for answer to the petition of the District Attorney, herein filed in behalf of the United States, says, that on or

about the 27th day of February, 1831, Juan B. Alvarado received from the Governor or Political Chief of California, a provisional grant of the tract of land known by the name of "El Sur," situate in the county of Monterey. That on the 30th day of September, A. D. 1834, José Figueroa, Governor or Political Chief of California, by virtue of authority in him vested, granted to the said Juan B. Alvarado the said tract of land called "El Sur," containing two square leagues, with the boundaries described in the grant, and set forth in the map which accompanied the grant, and was part thereof. That the said concession or grant was duly approved by the Territorial Deputation of California, on or about the 1st day of August, A. D. 1834, and that the final document of title was signed by the Political Chief of California, and delivered to the said Juan B. Alvarado, on or about the 30th September, A. D. 1834.

And the appellee further shews, that on the 9th day of December, A. D. 1840, the said Juan B. Alvarado sold and conveyed to the appellee the aforesaid tract of land.

The appellee further shews, that all the conditions of the grant were duly executed and performed by the said Alvarado and the appellee; that the said Alvarado entered into the possession of this land in the year 1831, and built a house on it, and stocked it with cattle, and cultivated part of it, and so continued in possession until he sold it to appellee, who, since then, has occupied the land with his cattle, and cultivated part of it, and is now in the peaceable occupation and possession thereof.

Wherefore the appellee prays this Honorable Court to affirm the decree of the said Board of Commissioners, and to declare his claim to the said land valid.

(Signed,) HALLECK, PEACHY & BILLINGS,
Att'ys for appellee.

Filed March 6th, 1855.

C. E. CARR.
Clerk.

A certified copy served upon the District Attorney by the U. S. Marshal, March 19th, 1855.

[No. 1.]

Motion to take Testimony.

IN THE UNITED STATES DISTRICT COURT,
For the Southern District of California.

THE UNITED STATES, appellant,
vs
JUAN B. R. COOPER, appellee.
} Claim for "El Sur."

And now on the 12th day of June, 1853, the parties appear, the appellant by P. Ord, U. S. District Attorney for the Southern Dis-

trict of California, and the appellee by his attorney, H. W. Halleck; and, on motion of appellee's attorney, it is ordered that either party may take such further evidence as they may wish in the above entitled cause.

Filed June 13th, 1855.

C. E. CARR,
Clk.

J. B. R. COOPER, appellee,
ads
THE U. S., appellant. } No. 1.

Testimony of John Temple.

John Temple, witness for appellee, sworn, and testifies as follows:

Question. What is your name, age and place of residence?

Answer. My name is John Temple; age 55; residence Los Angeles, since the year 1826.

Question. Do you know the hand-writing of Jose Maria de Echeandia, Agustin V. Zamorano, Jose Figueroa, and David Spence? and if so, state your means of knowledge.

Answer. I know them well, having seen them write frequently.

Question. Look at the paper now shown you, marked "Document No. 1, annexed to the deposition of E. P. Hartnell, before Com'r H. Hall, April 12th, 1852," and say whether the signatures of Jose Figueroa and Agustin V. Zamorano, are their genuine signatures.

Answer. I pronounce them genuine.

Question. Examine paper endorsed "Document No. 2, annexed to the deposition of E. P. Hartnell, taken before Com'r H. Hall, April 12th, 1852," and say if the signature of David Spence is, or not, his genuine signature?

Answer. It is.

Question. Examine the paper submitted to you, purporting to be a letter of naturalization of J. B. R. Cooper, and say if the signatures of Jose Ma. de Echeandia and Agustin V. Zamorano, are their genuine signatures.

Answer. They are genuine.

Question. Are you acquainted with the claimant in this case, J. B. R. Cooper?

Answer. I am.

Question. Is he married or single?

Answer. He is married.

Question. Do you know about when and to whom he was married?

Answer. It was prior to 1830; he was married to a native of California.

J. TEMPLE.

Sworn to and subscribed before me, the 20th Sept'r, 1855.

C. E. CARR, *Cl'k.*

Filed Sept'r 20th, 1855.

C. E. CARR, *Cl'k.*

Document No. 2 annexed to the deposition of E. P. Hartnell, taken before Comms'r H. Hall, April 12th 1852.

Sello Tercero Dos Reales.

Habilitado provicionalmente por la Aduana Maritima del puerto de Montery en el Departemento de las Californias para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y ano.

ZIMENO.

ANTONIO MARIO OSIO.

En el puerto de Monterey del departaments de las Californios a los mure dias del mes de Deciembre del año de mil ochocientos cuarenta anto mi David Spence Jnez de Porz constitucional de esta demarcacion y ante los testigos de assistencia, con quiens actuo en la forma establicida pro falta de escribano publico á mas de los instrumentales de que al fin se hará mencion parecieron de presente los Señores D. Juan B. Cooper y D. Juan B. Alvarado, vicinos de este lugar, cuyas personas doi fe y conozco y dijo el puinen que siendo dueño proprietario del terreno conocido con el nombre de la *Sagrada familia* (a) las Salinas, que obturo por compra legal, que hizo su antigno dueño el Sur D. Joaquin de la Torre, cuya escritina puro de manifiesto, y doi fé haber visto, en cuyo torreno está comprendido un potrero que forman el mas, la tembladera en la parte mas estrecha el Rio de Monterey y un Zanjon que corre por la parte del llano de las Salinas, inchryendo dosciéntos varas de terreno en la entrada á la bolso, pu le parte del mismo rio, cede, asi el potrero comolas doscientos varas de terreno ya mencionados al refindo Señor Alvarado, por si y á nombre de sus herederos y sucesores, y de quien de ellos hubien tetido voy, y fama en cualquiera manera, para que lo posea y sea reconocida como proprieedna suya, firme, perpetua, y valedera, siñ que nadie pueda intenumprise en supopicion, declarado come declara no tenerlo vendido, enagenado ni empeñado, y que esta libre de todo gravamen, publico, perpetuo, temporal, especial, general tacito ó espresay como tal so lo cede. Y el esparado Señor D. Juan B. Alvarado en reconocimiento de esta donaeim cede á beneficio del Señor Cooper en los mismos terminos, forma y manera sin vanacun alguna el parage llamado el *Sur* que obtiene con jnstos titulos del Gobierno del Departmiento con toda la esten-

cion que demarca el despacho que presamó en el acto y ucibió el Señor Cooper, en prueba de estar efectuaro el contrato. Asi misena declaran ambas partes hallarse perfectamente eqeilibrados los valores de un terreno con el otro y se alquuo de ellos eccediere al otro en mucho ó poca suma, hace este gracia y donscim justa, perfecto y inevocable que en derecho se llama *intertions*, con insinuacion y demas fermezas legales renuncion la ley cuarta, titulo siéte, libro quinto di la recopilacion y las demos que hablan de la.

Sello Tercero Dos Reales.

Habilitado provicionalmente por la Aduana Maritima del puerto de Monterey, en el Departmento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y ano.

ZIMENO.

ANTONIO MARIO OSIO.

—— lesion en mas ó menos de la mitad del justo precio y los cuatro años que prefinan para judio sa recisim ó suplemento, los que dan por pasados y disde hoy en adelante se desprenden hara siempre del dominio, posecion, titulo, recinso ó otro cualquiera derecho que les competa, el Señor Cooper el ennuciado potrero y dorcientos varas de torreno, y el Señor Alvarado al parage Sur ya mencimado, y lo renuncion y traspasan entre si nentuamente, confiriendose ambos poder irrevocable con libre franca y general administracion, para que de se antoridad apren dan la tenencia y posecion que por derecho les compete, obligandose uno y otro á que este cambro sera cierto, segueo y efectivo y nadie les inquietaraá ai moverá pleito y en caso contrario saldran mutuamente á la defensa hasta dejar al inquietado enpacifica posecion y de no conseguirse le sera devuelta so antigna propriedad con las mejora titiles que tenga y todos las casas perjuicros y menoscabos que se le seguiera y á la observancia de lo refendo obligàn sua bienes presentes y futuros y con ellos se someten al fairo y jurisdicion de los Señores Juecez, que de suz causas puedan y deban conocer conforme á deucho para que á su cumplimento los competran y apremien como por slutencia definition consentoda y pasada en antoridad de cosa pezzada renuncion los leyes de su favor y le general del deucho en forma. Eu cuyo testimonie asi lo Otorgaran y firmaron conenigo y, los de mi asistencie sunro los instrumentales los srēs D. Antonio Mario Osio D. Guenesindo Florey y D. Eugenio Mentenega presentes y vecinos. David Spence, Juan B. Alvarado, Juan B. Cooper, asistencia, Guellermo E. Hartnell, asistencia, Juan Matarin.

Es copia sacara fielmento de nu registro que obra en el archibo de mi juzgado, en el mismo dia de su otorgamiento, siendo testigos de ver la copiar y confrontan los Sores José Z. Fernandez y D. Manuel Cauxo; doy fe.

(Signed) DAVID SPENCE.

Filed in office, Sept. 6th 1852.

GEO. FISHER.

Sec'y.

A proved up copy of this paper is Recorded in Record of Evidence Vol. 1, page 80 to 82.

GEO. FISHER,
Sec'y.

No. 1. *Letter of Naturalization proved in Deposition of Juan Temple, Sept.* 21*st* 1855.

Sello 4o de Oficio.

Habilitado provisionalmente por la comisaria subalterna internia del Puerto de Monterey para el año de 1830.

ESTRENDIA.

CASARIN.

El Crindo, pre Maria de Eschendia terriento Coronel de Ingenciros, comandante General Inspector de la Alta California y Gefe Superior Politico de ambos,

Habiendo Mr. Juan Bantista R. Cooper originano de Boston capitol de Massachusetts en los Estados Union de Norte America cumplido con los condiciones y requisitos que previene la ley de catorce de Abril de mil ochocientos venite y ocho. del Congreso general que arregla el modo con que debe concederse la carta de naturaliza á las estrangeros y acompanañdo los documentos que lo a creditan declaro al reféndo Mr. Juan Bantista R. Cooper, pr. los presentes naturalizádo en los Estados Unidos Mejicanos en virtud de la anteridad que pr. aquilla ley se mi confiere.

Puerto de Monterey de la Alta California veinte y nueve de Mayo de mil ochocientos treinta.

JOSE MA. DE ECHENDIA.

AUGUSTIN V. ZAMORANO.
S'rio.

I hereby certify that the above and foregoing is a true and correct copy of the original introduced in No. 1 by Appellee.

C. E. CARR,
Clerk.

(*Translation of Letter of Naturalization.*)

Stamp 4, Official.

Provisionally authorized by the subaltern Commissary (ad interim) of the Port of Monterrey, for the year 1830.

ECHEANDIA.

CASARIN.

The citizen, Jose Maria Echeandia, Lieut. Colonel of Engineers, Commandant General Inspector of Upper California, and Superior Political Chief of both.

Mr. Juan Bantista B. Cooper, native of Boston, Capitol of Massachusetts, in the United States of North America, having complied with the conditions and requisites of the law of April 14th, 1828, of the General Congress which relates the mode in which a letter of naturalization ought to to be granted to foreigners, accompanied by the documents which accredit it, I declare the said Mr. Juan Bantista R. Cooper by these presents naturalized in these United Mexican States, in virtue of the authority which by said law is conferred on me.

Port of Monterrey in Upper California, May 29th, 1830.

JOSE MARIA DE ECHEANDIA
AUGUSTIN V. TAMORANO,
Secretary.

No. 1. *Decree by McAllister, Justice.*

No. 1. El Sur.

John B. R. Cooper, Appellee
ads.
The United States, Appellant.

District Court United States.
Southern Districal'a.

This cause coming on to be heard before a stated term of this Court on an appeal from the final decision of the Commissioners to ascertain and settle private land claims in the State of California, under the act of Congress approved March 3d, 1851, on the Transcript of the proceedings and decision; And the paper and the evidence on which said decision was founded, and on additional testimony taken in this Court; and it appearing that said Tanscript has been duly filed according to law, and Counsel for the respective parties having been heard, it is ordered, adjudged, and decreed, that the decision of the said Commissioners in favor of the Appellee be in all things confirmed, and it is further ordered, adjudged, and decreed, that the said claim be confirmed to the extent of two square leagues and no more, being the same land described in the grant and Expediente herein referred to, therein and of which possession is proved to have been had by the origininal grantee and the appellee, *Provided*, the quantity of square leagues hereby confirmed be contained within the boundaries called for in said grant and map referred to therein, and if there be less than the said quantity of two square leagues within said boundaries, then such less quantity is hereby ordered, adjudged, and decreed to the appellee, the said John B. R. Cooper.

M. HALL McALLISTER,
Judge Cir. Court U. S., for the District of California.

IN THE DISTRICT COURT OF THE UNITED STATES,
for the Southern District of California.

Hon. ISAAC S. K. OGIER, Judge, Special term, September, 1853.

JOHN B. R. COOPER, Appellee,
ads.
THE UNITED STATES, Appellant. } No. 1.
Transcript No. 124.

Motion for appeal and order.

On motion of P. Ord, Attorney of the United States for the Southern District of California, it is ordered by the Court, That an appeal be granted in favor of the United States to the Supreme Court of the United States in the above entitled cause from the judgment of this Court against the United States, rendered on or about the 21st of September, A. D., 1855.

Sept. 25th, 1855. P. ORD, *Att'y of U. S.*

Filed Sept. 25th, 1855.
(Signed) C. E. CARR,
Clerk.

UNITED STATES DISTRICT COURT.
Southern District of California.
CLERK'S OFFICE, LOS ANGELES, *Nov.* 22*d*, 1855.

I Charles D. Carr, Clerk of the District Court of the United States for the Southern District of California, do hereby certify the foregoing twenty pages numbered from 1 to 20 both inclusive, to contain a true, correct and full Transcript of the Record of the Proceedings and of the Decision of the said Court, of the Documentary Evidence and of the testimony of the Witnesses, upon which the same is founded on file in the Office in Case No. 1, in the Docket of the said Court wherein John B. R. Cooper is appellee, and the United States are appellant, for "El Sur."

In testimony whereof I have hereunto set my hand and affixed the Seal of said Court at Los Angeles, California, this twenty-second day of November, A. D. 1855, and of the Independence of the United States of America the Eightieth.

[SEAL.] C. E. CARR.
Clerk.

24

SUPREME COURT OF THE UNITED STATES,

No. 169.

THE UNITED STATES App'lts.

vs.

JOHN KEYES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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Transcript of the Proceedings in Case No. 222, Sal-si-puedes.

JOHN KEYES,

vs.

THE UNITED STATES,

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered, that on this Saturday, May 8th, Anno Domini one thousand eight hundred and fifty-two, before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of John Keyes, for the Rancho Sal-si-puedes, was presented and ordered to be filed and docketed No. 222, and is as follows, to wit:

JOHN KEYES, Claimant,
vs.
THE UNITED STATES, Defendant. } No. 222.

To the Honorable Commissioners to settle Private Land Claims in California.

The Petitioner, John Keyes, respectfully shows, that on the 28th day of May, A. D. 1844, Manuel Michettorena, Governor of California, by virtue of authority in him vested, granted to Pedro Cordero the tract of land called "Sal-si-puedes," situated in the present County of Santa Barbara, containing one square league and a half, a little more or less, as shown in the title and corresponding map, a copy of which title and map is submitted herewith, marked "A," with a translation marked "B."

That on the 18th day of December, 1849, the said tract of land was duly surveyed, and the judicial possession of it given to the said Cordero; a copy of which act of judicial possession is submitted herewith, marked "C," with a translation marked "D," and the petitioner further shows that the said Cordero has sold and conveyed to the petitioner the said tract of land, a copy of which conveyance he begs leave to file hereafter, the original being at the present time in Santa Barbara.

That the said tract of land has not been surveyed by the Surveyor General of the United States, but that it was duly surveyed at the time of giving the judicial possession of it, and that its boundaries are well defined in the title papers, and are well known.

That the said Cordero has been since the date of said grant, and

even before, and that the petitioner now is in the peaceful occupation and possession of the said tract of land.

That he knows of no conflicting claim. That he relies for confirmation of title upon the original papers referred to in this petition, upon the minutes and records in the office of the Surveyor General, and upon such other and further proofs as he may be advised are necessary.

Wherefore he prays the Commissioners to confirm to him the aforesaid tract of land.

By his Att'ys,
HALLECK, PEACHY, & BILLINGS.

Filed in office May 8th, 1852.
(Signed) GEO. FISHER.
Secy.

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:—

Saturday, May 8th, 1852.

In case No. 222, John Keyes, the deposition of Publo de la Guerra, a witness in behalf of the Claimant, taken before Commissioner Hiland Hall, was filed, and is in the words and figures as follows, to wit:—

(*Vide* pages of this Transcript, 14, 15, 16.)

Friday, Sept. 3d, 1852.

In Case No. 222, John Keyes, for the place called "Sal-si-puedes," the parties litigant filed the following stipulation, relative to placing this case on the Trial Docket which is as follows, to wit:

We agree that the above entitled cause be put on the Trial Docket, with the Stipulation which is hereby entered into that either the Law Agent or the Claimant may introduce further testimony previous to the argument of the case.

HALLECK, PEACHY, & BILLINGS.
Atty's for Claimants

Case No. 222, John Keyes, "Sal-si-puedes," ordered to be placed on the Trial Docket.

Wednesday, Sept. 29th, 1852.

Case No 222, John Keyes, for the place named "Sal-si-puedes," called, the counsel for the claimant, Mr. Halleck, read the papers in evidence, and submitted the same without argument. Taken under advisement by the Board.

In the same case, the Counsel for the Claimant filed an agreement entered into with the U. S. Law Agent, relative to the admission of two Exhibits, marked X and Y, as evidence in behalf of the Claimants, which agreement and Exhibits, and the translation of Exhibit X, is as follows, to wit:

(*Vide* page of this Transcript.)

Saturday, Dec. 1852.

In Case No 222, John Keyes, for the place named "Cañada de Sal-si-puedes," Commissioner Harry J. Thornton delivered the opinion of the Board.

In the same case, Commissioner Hiland Hall delivered his opinion.

In the same case, Commissioner Harry J. Thornton delivered the Decree of Final Confirmation of this Board.

Ordered, that the several opinions delivered this day, and the Decree of Final Confirmation of this Board also delivered this day, in this case, be recorded on the Journal.

Which opinion and decree are in the words and figures, as follows, to wit:

Commission for ascertaining and settling private Land Claims in the State of California. Session at San Francisco.

(*Opinion of the Board by H. J. Thornton.*)

JOHN KEYES, ASSIGNEE OF PEDRO CORDERO, vs. THE UNITED STATES. } No. 222, Cañada de Sal-si-puedes.

This Claim is presented by the Assignee of the Original Grantee. The genuineness of the transfer to the present Claimant is fully established; and the chief objections or questions raised in the case, relate to the validity of the original right or title.

There was read as evidence, without objection, a statement, by the Surveyor General of California, Custodian of the Archives of the former Government of the country, which shows that such a grant as the Claimant presents was made, that the papers appear to be fair and genuine; and that he knows of nothing in the said Archives calculated to throw suspicion thereon.

The original grant which purports to have been made by virtue of the decree of the Mexican Government, of the 18th of August, 1824, and of the ordinance of the 21st of November, 1828, is introduced and sustained by full proof of its genuiness, execution and delivery to the Grantee, by Governor Micheltorena, the Political Chief of the Province, on the 18th day of May, 1844. It appears in proof, that a house was built upon the land granted, and that it was occupied by the Grantee in the year 1843 or 1844; who had upon it cattle and horses, and that this occupation has continued down to this time without interruption by the Grantee or the present Claimant. There does not appear to have been any presentation of the grant by the Governor for its approval, by the Departmental Assembly; nor was there any delivery of possession and measurement of the land granted as required in the conditions annexed, by any public functionary, during the existence of the former Government.

Those last mentioned acts were performed in December, 1849, after the change of Government; and if not done in exact accordance with

the conditions requiring them, are facts which tend to the identification of the land granted, and to render entirely feasible, its present location or survey by the Surveyor General, whose duty it is to perform that act. All the objections above referred to have been considered by this Board, and overruled for the reasons given in the opinion filed in the case of Cruz Cervantes, No. 56, of the docket of cases.

The condition inserted in this grant that the grantee may not sell it, alienate or mortgage it, &c., was not violated, and no forfeiture incurred on that score whilst the former Government existed, so that the fee existed in the grantee at the time of the acquisition of the country by the United States; and we do not think that in good conscience the transfer which was afterwards made, ought to work a forfeiture to this Government.

It was held by the Supreme Court of the United States, in the case of Asedando, that the failure to comply with the subsequent conditions of the introduction of foreign settlers, was not one which this Government ought to regard as detrimental to the title. By parity of reasoning, the sale made by the Grantee to the Claimant in this case, ought not to operate a destruction of the claim. At all events we have decided, that this condition was nugatory, because it was repugnant to the established policy of the Mexican Government, prohibitory of every species of entails; and to her lands forbidding any restriction upon alienation of estates, Escuche 610, edition of 1851, collection of decrees of the Mexican Nation, on entails Vol. 2d 154, passed 7th of August, 1823.

The land in this case is most distinctly segregated from the public domain by the grant; and there can be no difficulty in surveying off to the Claimant that which has been uninterruptedly possessed and enjoyed by him and his assignor, ever since its date.

There occurs in this case terms, of which it is necessary to determine the force and effect, in order to ascertain and settle the claim by our decree of final confirmation, as that its location and survey may be definitely made.

It is declared in the fourth condition of the grant, that "The land of which donation is made, is one and a half square leagues, *a little more or less*, as shown by the respective map or diseño."

The idea of quantity, was clearly in the mind of the grantor, when using these words "*a little more or less;*" but it is equally clear that they do not convey an idea of any *precise quantity*. The question to which they give rise, is one of intention; and as the words to be construed are doubtful and indefinite in themselves, and have no fixed meaning appropriated to them by law, they must be subjected to that reasonable rule which directs us to seek that intention, in the extraneous facts and circumstances, which may be legitimately invoked, to find out and fix their meaning.

There are but two sensible or possible constructions to be placed on those words, where they occur in Mexican grants, made under the Decree of the 18th of August, 1824, and the ordinance of the 21st of

November, 1828; and as we have no warrant to settle arbitrarily, their meaning, we must endeavor to carry out the intention of the grantor, as far as we can attain it. One of those constructions referred to, is that the grant was intended to be made of the whole tract described in the map or diseño; and that the words, *a little more or less*, were used to enforce that intention.

The other supposable construction is that it was not intended to grant the *whole tract*, so marked out, but only the quantity specified, diminished or increased, by that embraced in the terms, *more or less*.

The first construction cannot be adopted, as the map or diseño, tho' required by the ordinance to be made with all the exactness practicable, could not from the nature of the case, do more than furnish a general description of the place or tract of Country, where the land asked for and granted, was situated. It was made without any survey and could not of course be accurate. It was sketched by persons not professing to be sufficiently familiar with the locality, even to approximate to certainty, as to its contents. The land was confessedly not so known to the parties, as to be granted by the map, *as a whole*, merely adding the words "*a little more or less*," to carry out that intent, irrespective of the quantity it might contain. Where the public lands have been previously laid off into divisions, and subdivisions, of a given form and magnitude, or in a settled Country, where the parties are acquainted with the different tracts, or parcels of land, by long possession, and acknowledged ownership, that intention is recognized, and the words *more or less* may have acquired such a fixed signification. But in this Province at that time, it is manifest that such a construction would not effectuate the true intention of the parties. A tract of land could not be granted as an entirely, unless its contents were known to be less than, or rather no more than *eleven leagues;* for the law prohibited a grant of larger extent *than that.*

If the words, *more or less* or *a little more or less*, should occur in a grant, without any other terms, to qualify their sense, it might with more plausibility be supposed that *that* the intention of the grantor was, in subordination to the legal restriction of eleven leagues, to grant to the extent of the limits of the diseños; that is, to grant the whole tract delineated in this map, with a tacit proviso, that it contain no more than the legal compliment.

But in this case there are connected with them, other words, which indicate a different intention. Those supplemental words being significant, cannot be rejected, according to any just rule of construction, unless the palpable sense of the writing would be marred, or an absurdity introduced, by their retention. The qualifying words alluded to, which follow immediately upon a reference to the map or diseño, are "The Magistrate, who may give the possession, will cause it to be measured according to the ordinance, *leaving the surplus which may result*, to the Nation for its convenient uses." *This sur-*

plus which may result must mean the residue within the bounds of the map or diseño; for it is certain that the grant cannot extend beyond them, whether more than eleven leagues, or less, be embraced within them.

The applicant has fixed by his own selection, the limits within, which his land is to be contained; and the interest of the nation, as well as that of other petitioners would be most injuriously affected, if he were permitted to trancend them.

It is more equitable that he should be disappointed of his supposed quantity by his own act, than that others should be injured by his error. Then we can only give a proper effect to these qualifying terms in the grant, by supposing it to have been estimated, that there might be more within the bounds of the diseño, than the quantity actually intended to be granted.

It might probably be urged, that such a construction can be put upon the words, "leaving the surplus which may result," &c., as to give them their full effect, and also to give the words " a little more or less," the import which has been suggested. That interpretation is to construe the words "*a little more or less*" as extending the grant to the Bounds of the diseño, if there be no more than eleven leagues; and the "surplus which may result," as relating to the residue of the public domain, outside of these bounds. By that construction of the grant, the words of reservation would not only be idle, and supererogatory, since without them such would be the case, but the strange paradox would be thereby adopted, that a grant of one league and a half, "*a little more or less*" means, or may be extended to include eleven leagues, by means of the erroneous or fraudulent representation of the applicant, in the map with which he accompanies his petition.

The quantity of every grant is limited by the Decree and Ordinance above recited to the maximum and minimum therein prescribed, and the discretion of the Political Chief is to be exercised between those limits. If there had been no change of government, and Mexico had provided (as she had never done in California) sufficient means, through a public Surveyor, to ascertain the exact limits of her private grants, it would have then been necessary to have reduced every claim to *absolute certainty.*

It is now the object and design of the Government of the United States, to perform that duty; and this Board is engaged in furnishing its quota towards that purpose, under the Act of the 3d of March, 1851, as a preliminary to this location or demarkation of those private grants, we are required to ascertain their validity. The validity, however, of a claim or grant involves necessarily, *a thing granted;* and where quantity is given as the characteristic, descriptive feature of *that thing* we must, if we can do so, ascertain that quantity. We must in a case of such grant, either ascertain it, or declare the grant void for uncertainty.

Nor will it be competent to this Board to declare the claim valid, "for one and a half leagues, a little more or less," for that would

leave wholly indefinite, what we have seen, it is our duty to ascertain if we confirm it at all, where the grant is by quantity.

And even where the grant is ever so explicitly by metes and bounds only, we should still guard against a violation of the law regulating the quantity, by a provisional confirmation, as for example, thus, to the extent of the bounds, if here be no more than eleven leagues within them; and for such less quantity only where the bounds contain less.

The words, *poco mas ó menos*, are not only as we have said terms of quantity, but they are also comparative terms, referring to some number already expressed. They also evidently mean, a fraction of some integer or unit. The unit of which they contribute a fraction in this case, is not the aggregate of the antecedent leagues, but a unit composing a part of that aggregate number.

The unit of which "a little more or less" is a fraction, is evidently one league; but at all events, as a sign of quantity, it is wholly uncertain, and we are not authorized to adopt arbitrarily, any proportionate part of any integral number, as its exponent, nor can we by force of these terms, either add to or diminish in any degree, the specified quantity.

The only alternative which we can adopt, is either to declare the whole grant a nullity, for want of certainty, or to reject those terms, on account of their uncertainty, and declare the grant valid to the extent which is already expressed.

The quantity of one league and a half in this case is certain, and it is more consonant with equity, to confirm the claim to that extent, than to declare it void in toto on account of these expletory terms, which are so utterly indeterminate.

It seems that the reasonable maxim utile per inutile non vitiatur, is justly applicable to sustain a grant, which to the extent of one league and a half at least, was clearly intended.

We are unanimously of the opinion that according to the principles laid down for our Government in the eleventh section of the Act of the 3d of March, 1851, the claim in this case is valid and ought to be confirmed to the present claimant, to the extent of one square league and a half.

Com'r Hall concurs in the result above announced.

(Signed,) HENRY J. THORNTON,
Com'r.

No. 222. *Claim of John Keyes.*

I agree that the foregoing opinion of Commissioner Thornton furnishes sufficient reasons for the confirmation of this claim; though I do not concur in a portion of them.

(Signed,) HILAND HALL,
Com'r.

JOHN KEYES, Assignee of Pedro Cordero,
vs.
THE UNITED STATES. } No. 222.

Final Decree of Confirmation.

This Board, upon the full consideration of the various grounds affecting the validity of the said claim of John Keyes, Assignee of Pedro Cordero, which was presented to this Board sitting under the act of Congress of the 3d of March, 1851; having come the conclusion that the same claim is valid, therefore now proceeds to make and does hereby make and enter of Record the following decree or report of Final Confirmation, viz: It is Decreed and Reported that the said claim be confirmed to the extent and quantity of one and a half square leagues; being the same land described in the grant and expediente referred to therein;

Provided, that the said quantity specified in the grant, and now here to the Claimant confirmed, be contained within the boundaries called for, in the said grant and map to which the grant refers; and if there be less than one and a half square leagues within the said bounds, then we confirm to him that less quantity; it being apparent, that said quantity exceeds the minimum prescribed in the Ordinance of two hundred varas.

(Signed,) HILAND HALL,
(Signed,) HARRY THORNTON, } *Com'rs.*

OFFICE OF THE BOARD OF COM'RS OF CALIFORNIA LAND CLAIMS.
SAN FRANCISCO, *May 8th*, 1852.

On this day before me Hiland Hall one of the Commissioners for ascertaining and settling private Land Claims in the State of California, came Pablo de la Guerra a witness produced in behalf of the Claimant John Keyes, whose petition is No. 222, on the docket of the of the Board, and was duly sworn. The Law Agent was notified and attended. In answer to question put by the Counsel for Claimant the witness testified as follows

1st Question. What is your name, age and place of residence?

Answer. My name is Pablo de la Guerro: I reside in Santa Barbara, and have resided in California all my life.

2d Question. Do you know the signatures of Manuel Micheltorena and Manuel Timeno, of Raymando Carillo, Vicente Maraga, Guillermo Carillo, Pedro Cordero, Jose Cailoro, Gregoria Lopez, aud Jose Maria Valenzuela: and if so, say whether their signatures to the papers before you are genuine, and whether the papers are genuine and original: and if the papers marked exhibits "A" and "C" filed in Claim No. 222, in the Office of the Secretary of the Commissioners are true copies of these originals?

Answer. I am acquainted with the signatures of Manuel Micheltorena, Manuel Timeno, Raymando Carillo, Viente Moraga, Guillermo

Valenzuela: their signatures to Carillo, Pedro Cordero, Jose Cairolo Gregoria Lopez and Jose Maria the papers before me are genuine, and the papers are genuine and originals: I have compared them with exhibits "C" and "E," filed in petition No. 222 and find the latter to be true copies of those originals.

3d Question. What do you know about the possession and occupation of the tract of land described in these papers?

Answer. This land lies adjacent to land owned by my father. I know it was occupied about the year 1843 or 1844, by Pedro Cordero with a house and with cattle and horses, and has been so occupied ever since. I have heard that Cordero has recently sold it to John Keyes.

I have always understood that the title was a good one, and I have never heard of any conflicting claim.

In answer to questions by the Law Agent the witness says the first time he was on the land after it was granted to Cordero there was a house on it in which he lived. It was, I think, in 1848, when first I saw it. It must have been built some time before that.

Cordero lived on the place until he sold it to Keyes about the year 1850.

Keyes has occupied the land by his people ever since. I do not know whether any land unless it be a small quantity for vegetables has been cultivated.

The stock of cattle has amounted to only a few hundred.

PABLO DE LA GUERRA.

Sworn and Subscribed before me,

HILAND HALL,
Com'r.

Filed in office, May 8th, 1852.

(Signed,) GEORGE FISHER,
Sec'y.

Exhibits A. and C.

Sello Segundo Cuatro Pesos.

Habilitado provisionalmente por la Aduana maritima del puerto de Monterey en el Departamento de las Californias, para los añon de

PABLOO DE LA GUERRA.

MICHELTORENA.

AD MART'A DE MONT.

El Cindadano Manuel Michelrorena Generyl de Brigada del Ejercito Mejicano, Ayudante Grāl de la Plana Mayor del mismo, Gobernador, Comand'to Grāl e Inspector de Departam'to de Californias.

Por cuanto el Cindadano Pedro Cordero ha pretendido para su beneficio personal y el de su familia el paraje conocid o con el nombre

de Cañada de Salsipuedes, colindante con el rio de la Purissima con la vibera de las lomas de la Mision Vieja con la la loma que llaman eñchilla que corze p'a la tinta y conlas lomas de S'ta Rosa: practicadas previamente las diligencias y averigaciones concernientes, segun ló dispuesto por leyes y reglamentos de la materia, usando de las facultades que me son conferidas á nombre de la Nacion Mejicano, he venido en concederle el terreno mencionado, sujetandose á la aprobacion de la Esema Asemblea Departamental y à las condiciones siguientes:

1a. No podra venderlo, enagenarly ni hipotecarlo, imponer censo, vinculo ú otro gravamen alguno.

2a. Podra cercarlo sin perjudicar las travesias, caminos y servidembres: lo disfrutará libre y exclusivamente destinandola al uso ó cultivo, que mas le acomode pero dentro de un año fabricara casa y estará habitada.

3a. Cuando se le confirme la propidad solicitará del Tuez respectivo que la dé posesion juridica en virtud de este despacho por el cual se demarcarán los linderos en cuyos limites pondra á mas de las mojoneras algunos arboles frutales ó silvestres de alguna utilidad.

4a. El terreno de que se hace donacion es de un sitio y medio de ganado mayor poco mas ó menos segun explica el diseño respectivo. El Juez que diere la posesion lo hará medir conforme á ordenanza guedando el sobrante que resulte á la Nacion p'a los usos convenientes.

5a. Si contraviniere á estas disposiciones perdera su derecho al terreno y será denunciable por otro. En consecuencia mendo que teniendose por firme y valedero el presente titulo se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines. Dado en Monterey a diez y ocho de Mayo de mil ocho cientos cuarenta y cuatro.

MAN'L MICHEL'A,
MAN'L TIMENO,
Scrio.

Queda tomada razón de este despacho en el Libro respectivo a fajas 8. TIMENO.

Posecion Judicial en favor de D. Pedro Cordero del Paraje llamado Cañada de Salsipredes.

1849.

Sr Alcalde 1ro de S'ta Barbara Pedro Cordero vecino de este Punto ante la justificacion de V. comparesco y digo: q'e habiendo obtenido la concecion en propiedad del terreno conocido con el nombre de Cañada de Salsipuedes, por titulo espedido en mi favor por el Sup'or Gob'no del Departam'to A. V. suplico se sirva darme la posesion juridica de estito con arreglo á dho titulo el cual devidamente

acompaño, de lo q'e queduro sumamente reconocido jurando no proceder de malicia &c.

PEDRO CORDERO.

S'te Barb'a Dbre 4 de 1849.

S'TE BARBARA, Dbre. 7, de 1849.

En virtud de la antecedente solicitud, procedase por mi el presente Juez á la medicion señalamiento de linderos y posecion judicial del terreno conocido por cañada de Salsipuedes q'e solicita el interesado en esto espediente con arreglo al titulo q'e acompaña señalando para berificarlo el dia diez y ocho del presente para lo q'e se citaran en devida forma a los Colindantes, asi yo el Juez de 1sa Ynst'a de este Distrito Raym'do Carrillo, lo mandé decreté y firme actuando por reseptoria con testigos de asist'a que por falta de de escribano publico de q'e doy fé.

RAYM'DO CARILLO.
Asist'a VICENTE MORAGA.
Asist'a GUILL. CARRILLO.

En la fhā. presente D. Pedro Cordero se le notifició el anto q'e antecede y de entendido que lo hoye y se da por citado y lo firmó conmigo y los de mi asistencia doy fé.

RAYM'DO CARILLO.
PEDRO CORDERO.
Asist'a VICENTE MORAGO.
Asist'a GUILL'O CARRILLO,

En la misma Fehā, se libraron los voletes q'e manda el 1ro probeido, y para q'e conste por diligencia lo rubrique.

En el Rancho de Cañada de Salsipuedes á los diez y ocho dias del mes de Diciembre de mil ochocientos cuarenta y nueve en cumplim'to de cita librada á los Colindantes del espresado Rancho compareció D. Gregorio Lopez Mayordomo de S. Julian y apoderado de D. Jose de la Grrā no habiendo comparecido apoderado alguno p'r D. Ramon Malo (pues dhō. S'r no se hallaba en este Punto) é igualmente no comparecieron D. Fran'co Cota, y D. Jose Antonio Carrillo, no obstante habiendolos esperado en el Punto y Dia citado prosedi á la referida posecion en favor del espresade S'r Cordero, y dijo el referido D. Gregorio Lopez quedar entendido y para constancia lo firmaren conmigo y los de mi asist'a doy fé.

RAYM'DO CARRILLO.
GREGORIO LOPEZ.
Asist'a JOSÉ FELIS.
Asist'a JOSÉ CARLON,

En la Fhá. yo el Juez de estos antos nombré por medidores en la presente posecion a los Ciudadanos Gregorio Lepez y Jose M'a

Valenzuela guienes prebia la aceptacion y juramento q'e hicieron por Divo Ntrŏ. S'r y una Señal de Cruz de usarlo fiel y legalmente á su leal saber y entender, y sin dolo ni frande contra persona alguna lo firmaron conmigo y los de mi asist'a de que doy fé.

RAYM'DO CARRILLO.
Asist'a JOSÉ FELIS.
Asist'a JOSÉ CARLON,
GREGORIO LOPEZ.
JOSE MA. VALENZUELA.

Yncontinenti yo el referido Juez mandé traer á mi presencia un cordel de reatas y mecates con qe se an de medir las tierras de Dho. Rancho y qe lo midiesen los medidores de á cincuenta varas lo qe firmó con los de mi asista. doy Fé.

RAYM'DO CARRILLO.
Asist'a JOSÉ FELIS.
Asist'a JOSE CARLON.

En segnida y en presencia de mi el espresado Juez los medidores tomaron el cordel mencionado y con una vara de medir usual, midicron sincuenta varas para haceta referida medicion y pa. qe conste lo rubrique.

En la misma Fha. siendo como las dos de la tarde en el espresado Rancho yo Dhŏ. Juez para proseder a la medicron de tierra que se ha de aser a D. Pedro Cordero pasé con los medidores á un aguaje qe está a pocas varas de distancia de la casa de dho. Cordero lindero d. D. José de la Grra, y puestos en este punto se comensó la medida tendiendo el cordel rumbo al N. hasta llegar á la orilla del rio de la Purisima por la parte de Sipñes, rumbo al E. lindero de D. Ramon Malo, v se midicron Ciento sesenta Cordeles de a sincuenta varas, presenciado y apuntado todo este aoto por mi el referido Juez pr. lo que resultó tener el espresado terreno una legua y media y quimentas varas de longitud, Colindando al O con la ribera de las lomas de la mision Viega, al Norn'te con la loma qe llaman Cuchilla qe corre para la tinta, y al E. con la loma de Sta. Rosa, é ignalmente resultó tener la misma distancia de latitud dentro de los linderos demarcados por el titulo de consecion, advertiendo no haberse podido tirar el Cordel á linea recta por lo alto de las lomas é intrasitable á causa de la continua llubia por lo qe se anduvó por el camino real qe llaman de la Carreta, acompañando á este espediente el espresado titulo superior, y para constancia lo firme por anto con los testigos de mi asist'a de qe doy fé.

RAYM'DO CARRILLO.
Asist'a JOSE FELIS.
Asist'a JOSE CARLON.
GREGORIO LOPEZ.
JOSE MA. VALENZUELA.

En el referido Rancho de la Cañada de Salsipuedes y en el mismo dia mes y año D. Pedro Cordero Vecino del Distrito de Sta. Barbara acompañado del Alcalde 1ro y Juez de 1a Ynsta. con los tertigos de asista. de estos autos Dijo qe habiendose medido la tierras de este Rancho segun consta en el anto anterior, tomaba y toma la verdadera y corporal posecion de Dhās. tierras medidas pues le pertenecen por justo titulo qe obtiene de la concesion qe de ellas le nigo el Sup'or Gob'no del Departamento. Entró y poseó por ellas, arranco llerbas esparsio puñados de tierra rompio ramas de los arboles é izo otras demonstraciones y actos de posecion en señal de la qe dijo tomaba de dhas tierras; y yo dhó. Jues mande que desde entonces lo tubiran y reconocieran por verdaders Senor y posedor de ellas.

De todo lo espuesto pidio Dho. D. Pedro Cordero, qe para memoria en lo venidero, y conserbacion de sus derechos, le fuese estendida por mi el referido Juez una const'a, y lo firmó conmigo y los testigos de mi asistencia de qe doy Fé.

RAYM'DO CARRILLO.
PEDRO CORDERO.
Asist'a JOSE FELIS.
Asist'a JOSE CARLON.
GREGORIO LOPEZ.
JOSE MA. VALENZUELA.

Dereihos, Cien ps. á Diez Reses.

FHA. UT SUPRA.
RAYM'DO CARRILLO.

Filed in office, Sept. 29th, 1852.
(Sigd.) GEO. FISHER.

(*For map, see original page* 24.)

(B. *Translation of Title.*)

Stamp second, four dollars.

Provisionally authorized by the Maritime Custom House of the Port of Monterey, in the Department of the Californias, for the year 1844 and 1845.

(Signed) MICHELTORENA.
(Signed) PABLO DE LA GUERRA.
[CUSTOM HOUSE SEAL.]

Citizen Manuel Micheltorena, General of the Brigade of the Mexican Army, Adjutant General of the Staff of the same, Governor, Commanding General and Inspector of the Department of the Californias.

Whereas, Citizen Pedro Cordero has for his own personal benefit and that of his family petitioned for the place known by the name of Canada de *Sal-si-puedes*, bounded by the river of "La Purisima," by

the edge of the hills of "La Mission Viega," by the hill which is called the ridge, which goes to La Tinta, and by the hills of Santa Rosa, the proper measures and examinations being previously made as required by laws and regulations on the matter, using the facilities which are conferred on me in the name of the Mexican nation, I have granted him the aforesaid land, subject to the approval of the most Excellent Departmental Assembly, and to the following conditions:

1st. He may not sell it, alienate, or mortgage it, subject it to any tax, entail, or any other incumbrance whatsoever.

2d. He may enclose it without prejudice to the crossings, roads and servitudes, and enjoy it freely and exclusively, making of it such use as may best suit him; but within one year he shall build a house on it, and it shall be inhabited.

3d. When the ownership is confirmed to him, he shall request the proper magistrate to give him judicial possession, in virtue of this title, by whom the boundaries will be marked out, in the limits of which besides the bounds he shall place some fruit, or forest trees of a useful character.

4th. The land of which donation is made is one and a half square leagues, a little more or less, as shown by the respective maps. The magistrate, who may give the possession, will cause it to be measured in conformity with the ordinance, leaving the surplus which may result to the nation for its convenient uses.

5th. If he contravene these directions, he shall lose his right to the land, and it may be denounced by another person.

In consequence, I order that this title being held as firm and valid, note be made of it in the respective book, and it be delivered to the person interested for his security and other purposes.

Given in Monterey on the eighteenth of May, eighteen hundred and fourty-four.

(Signed) MANUEL MICHELTORENA.
(Signed) MANUEL TIMENO,
Secretary.

Note has been made of this title in the respective book on folio 8.

(Signed) TIMENO.

I certify the foregoing to be a true translation from the Spanish original annexed to the deposition of Pablo de la Guerra in Case No. 222, and on file in this office.

Los Angeles, Sept. 29th, 1852.

(Signed) GEO. FISHER,
Secretary.

Filed in office May 8th, 1852.

(Signed) GEO. FISHER,
Secretary.

(*D. Translation of Tur. possession.*)

To his Honor the First Alcade of Santa Barbara,

Pedro Cordero, resident of this place before the justification of your Honor, appears and says, that having obtained the grant in fee of the land known by the name of "Cañada *Sal-si-puedes*," by title issued in his favor by the superior Government of the Department,

He prays your Honor to have the goodness to give him the customary judicial possession in conformity with said title which he duly transmits herewith, for which he will remain extremely grateful, swearing that this does not proceed from malice, &c.

Santa Barbara, December 4th, 1849.

(Signed) PEDRO CORDERO.

Santa Barbara, *Dec. 7th*, 1849.

In virtue of the foregoing request, I, the present magistrate, will proceed to the measurement, designation of boundaries and judicial possession of the land known as *Canada de Sal-si-puedes*, which the person interested in this Espediente requests, in conformity with the title which he transmits, designating the eighteenth day of the present month on which to verify it, summoning the Colindantes in due form for that day.

Thus I, Raymundo Carillo, Judge of First Instance of this District, ordered, decreed, and signed, acting in virtue of my office, with assisting witnesses, for want of a Notary Public, to which I certify.

(Signed) RAYMUNDO CARILLO.

Assisting Witnesses.

(Signed) VICENTE MORAGA.
(Signed) GUILLMO. CARILLO.

On the same date, present Don Pedro Cordero, he was notified of the foregoing order, and having understood it, he said that he heard it, acknowledged notice, and signed it with me and those of my assistance. I certify.

(Signed) RAYMUNDO CARILLO.
(Signed) PEDRO CORDERO.

Assisting Witnesses.

(Signed) VICENTE MORAGA.
(Signed) GUILLMO. CARILLO.

On the same date the summons ordered in the first decree were issued, and in testimony I signed it in rubric.

(Rubric of R. CARILLO.)

In the Rancho of Canada of Sal-si-puedes, on the eighteenth day of the month of December, one thousand eight hundred and forty-nine, in compliance with the summons issued to the Colindantes (adjoining neighbors) of the said Rancho, there appeared Don Gregorio Lopez, Major Domo of San Tullian, and attorney for Don Jose de la Guerra, no attorney appearing for Don Raymon Malo (for that person was not at the time in this place) neither did Don Francisco Cota and Don Jose Antonio Carillo appear—nevertheless, after waiting for them at the place and on the day designated.

I proceeded to the possession referred to, in favor of the said Senor Cordero, y the aforementioned Don Gregorio Lopez said that he understood it, and in testimony he signed with me and those of my assistance, I certify.

(Signed) RAYMONDO CARILLO.
(Signed) GREGORIO LOPEZ.

Assisting Witnesses.

(Signed) JOSE FELIZ.
(Signed) JOSE CAILOW.

On the same date, I, the Judge in these acts, appointed measures in the present possession Citizens Gregario Lopez and Jose Maria Valenzuela, who after the acceptance and the oath which they made by God and our Lord and a sign of the cross, to use it faithfully and legally to the best of their knowledge and understanding, without deceit or fraud against any person. Signed it with me and those of my assistance, to which I certify.

(Signed) RAYMONDO CARILLO.
(Signed) GREGORIO LOPEZ.
(Signed) JOSE MARIA VALENZUELA.

Assisting Witnesses.

(Signed) JOSE FELIZ.
(Signed) JOSE CAILOW.

In continuation, I, the said magistrate, ordered to be brought into my presence a cord made of rope, (reata y mecate) with which to measure the lands of said Rancho, and that the measurers measure off fifty varas on it, which I sign with those of my assistance, I certify.

(Signed) RAYMUNDO CARILLO.

(Signed) JOSE FELIZ.
(Signed) JOSE CAILOW.

In continuation, and in presence of me, the aforesaid magistrate, the measurers took the said rope, and with a common vara-measure marked off fifty varas to make the aforesaid measurement, and, in testimony, I signed it in rubric.

Rubric of RAYMONDO CARRILLO.

On the same date, being about two o'clock, afternoon, in the aforesaid Rancho, I, the said magistrate, in order to proceed to the measurement of land, which is to be made for Don Pedro Cordero, went with the measurers to a spring, which is distant a few varas from the house of said Cordero, the bonndary of Don Jose de la Guerra. and placed in this point, the measurement was commenced, drawing the cordel in a direction north to the bank of the river of La Purisima on the side towards Sipued, to the east, boundary of Don Raymon Malo, and they measured one hundred and sixty cordels of fifty varas. This entire act being witnessed and noted down by me, the said magistrate, from which the said land proved to contain one and a half leagues and five hundred varas in length, bounded on the west by the edge of the hills of *la Mission Viega*, north-west by the hill called the ridge, which goes to la Tinta; and on the east by the hills of *Santa Rosa*; and it also proved to have the same distance in breadth within the boundaries specified in the title of grant, observing that it was not possible to draw the cordel in a right line on account of the height of the hills aed their impassableness, on account of the continued rain for which reason the highway called the cart-road was used, transmitting with this espediente the aforementioned superior title, and in testimony, I signed it officially with the witnesses of my assistance, to which I certify.

(Signed) RAYMUNDO CARILLO.
(Signed) GREGORIO LOPEZ.
(Signed) JOSE MA. VALENZUELA.

Assisting Witnesses.

(Signed) JOSE FELIZ.
(Signed) JOSE CAILOW.

In the aforesaid rancho of the Canada de Sal-si-puedes, and in the same day, month, and year, Don Pedro Cordero, resident of the District of Santa Barbara, accompanied by the first Alcade and Judge of First Instant with the assisting witnesses of these acts, said that the lands of this Rancho having been measured as appears by the proceeding act, he would take, and he took the true and corporal possession of said lands measured, for they belong to him by a just title which he obtains from the grant which the Superior Government of the Department made him of them; he entered on and walked over them, pulled up grass, scattered hands full of earth, broke branches from the trees, and performed other demostrations and acts of possession, in sign of that, which he said he was taking of said lands, and I, the said magistrate, ordered that from that time he should be held and recognised as true owner and possessor of them.

Of all the foregoing, said Don Pedro Cordero prayed that for the future testimony and the preservation of his right, a testimony should

be given to him by me, the Judge aforesaid, and he signed it with me and those of my assistance, to which I certify.

(Signed) RAYMUNDO CARILLO.
(Signed) PEDRO CORDERO.
(Signed) JOSE MA. VALENZUELA.
(Signed) GREGORIO LOPEZ.

Assisting Witnesses.

(Signed) JOSE FELIZ.
(Signed) JOSE CAILOW.

Fees, one hundred dollars, or ten head of Cattle. Date as above.
(Signed) RAYMUNDO CARILLO.

I certify the foregoing to be a true translation from the Spanish original annexed to the Deposition of Pablo de la Guerra, Case No. 222, and on file in this office.

Los Angeles, Sept. 29th, 1852.

(Signed) GEO. FISHER.
Sec'y

Filed in Office, May 8th, 1852.

(Signed) GEO FISHER.
Sec'y

Before the U. S. Land Commission.
No. 222.
Claim of John Keyes to Rancho of Sal-si-puedes.

In this case the Law Agent of the United States admits the due execution of the conveyance of the above named tract of land by Pedro Cordero to John Keyes, dated March 20th, 1850, the original of which is annexed hereto, and marked X; and he further admits the due execution of the deed of relinquishment of the heirs of said Pedro Cordero, dated February 18th, 1851, and annexed hereto, marked "Y," of the aforesaid Rancho, also called "Canada de la lumbre."

Los Angeles, Cala. Sept. 29th, 1852.

ROBERT GREENHOW.
Acting as Law Agent, in the absence of the Law Agent.

Filed in Office September 29, 1852.

(Sgd) GEO. FISHER,
Sec'y.

(Y.)

Know all men by these presents, That we, Pedro Cordero, Francisco Cordero, Carlos Cordero, Guadalupe Cordero, Jose Jesus Cordero, y Bernardino Lopes, husband of the late Rafael Cordero, all of whom are children of the late Pedro Cordero y Dolores Quyado, do all, separately and severally, certify, that we have secured from Mr.

John Keyes the sum of three hundred and sixty-eight dollars, being a certain amount remaining in the hands of the aforesaid John Keyes, deposited by late Pedro Cordero, part of the proceeds of the sale of a certain farm called the Canada de-pedro de la lumbre; and we further acknowledge that we have no further claim whatsoever, directly or indirectly, against the said Keyes, his heirs or assigns, this being a receipt in full, from the beginning of the world to this date, for all claims of whatsoever nature or kind; and we further bind ourselves, jointly and severally, to pay all debts of our father, the late Pedro Cordero, should there be any. Also, that we renounce forever all further claims to the aforementioned Rancho of the Pedro de la lumbre. In witness whereof we have set our hands and seals this first of February, in the year of our Lord, one thousand eight hundred and fifty-one, in the city of Santa Barbara, State of California.

his
PEDRO ⋈ CORDERO. [SEAL.]
mark

his
FRANCISCO ⋈ CORDERO. [SEAL.]
mark

his
CARLOS ⋈ CORDERO. [SEAL.]
mark

JESUS CORDERO, [SEAL.]
for GUADALOUPE CORDERO.

JOSE JESUS CORDERO. [SEAL.]

his
BERNARDINO ⋈ LOPEZ. [SEAL.]
mark

Witness,
N. A. DEN.

Filed in Office Sept. 29th, 1852.

(Sgd) GEO. FISHER,
Sec'y.

(X.)

Por el presente Doçumento me obligo yo Pedro Cordero, a presencia de los testigos qe abajo se firman á entregar en el Rancho qe vendi a D. Juan Kays, y al mismo Sr. la cantidad de cien Reses cuyo numero me obligo á no faltar á su cumplimto y el espresado D. Juan Kays se obliga a tomar hasta doscientos cabezas chico y grande al precio de Diez pesos cabeza, cuya entrega de ganado verificare, antes del veinte de Tunio del presente año, y a la observancia del presente trato obligan sus personas, bienes abidos y por haber, dando poder á los Sres. Tueces pa qe exsijan el cumplimto de lo qe en este se prescribe, como si fiera judicial y lo firmo yo el espresado Cordero y por D. Juan

Kays su apaderado D. Nicolas Den in Sta. Barba. a veinte de Marzo de mil ocho cientos sincuenta.

NICOLAS A. DEN. PEDRO CORDERO.
Testigo Testigo
RAYMDO CARRILLO. GASPAR OREÑA.

(*Translation of X.*)

I, Pedro Cordero, by the present document, in presence of the witnesses who sign below, bind myself to deliver on the Rancho which I sold to Don Juan Keyes, and to the same person, the quantity of one hundred head of cattle, which number I bind myself not to fall short of. And the said Juan Keyes binds himself to take as many as two hundred head, large and small, at the price of ten dollars a head, which delivery of cattle I will make before the twentieth of June of the present year.

And to the observance of the present contract they bind their persons, their property, present and future, giving power to the Judges to exact the fulfilment of that which is in this prescribed as if it were juridical, and I, the said Cordero, sign, and for Juan Keyes his attorney in fact, Don Nicolas Den, in Santa Barbara, on the twentieth of March, one thousand eight hundred and fifty.

(Signed) PEDRO CORDERO,
(") NICOLAS DEN.

Witnesses,
(Sgd) RAYMUNDO CARRILLO,
(Sgd) GASPAR OREÑA.

Filed in Office Sept. 29th, 1852.

(Sgd) GEO. FISHER,
Sec'y.

I, George Fisher, Secretary of the Board of Commissioners to ascertain and settle the private Land Claims in the State of California, do hereby certify the foregoing 37 pages, numbered from 1 to 37, both inclusive, to contain a true, correct and full transcript from the Journal of Proceedings of said Board, of the original depositions of witnesses, and of the Documentary Evidence on file in this Office, in case No. 222, John Keyes, claimant, against the United States, for the place Sal-si-puedes.

In testimony whereof I hereunto set my hand and affix my private seal, not having a seal of Office at San
[SEAL.] Francisco, California, this 14 day of December, A. D. 1853, and of the Independence of the United States of America the seventy-seventh.

(Sgd) GEO. FISHER,
Sec'y.

UNITED STATES DISTRICT COURT,
Southern District of California.
CLERK'S OFFICE, LOS ANGELES, *November 22d*, 1855.

I, Charles E. Carr, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing 38 pages numbered from 1 to 38, both inclusive, contain a full, true and correct copy of Transcript No. 222 filed in this office wherein "John Keyes" is appellee and the United States are appellant for "Sal-Si-Puedes."

In testimony whereof I have hereunto set my hand and affixed the seal of said Court at Los
[SEAL] Angeles, California, this twenty-second day of November, A. D. 1855, and of the Independence of the United States of America the Eightieth.

C. E. CARR,
Clk.

DISTRICT COURT OF THE UNITED STATES,
Southern District of California.
Special September Term, 1855.
CLERK'S OFFICE, LOS ANGELES, *Nov. 22d*, 1855.

JOHN KEYES, appellee,
ads.
THE UNITED STATES, appellant. } Docket No. 2. Sal-si-Puedes. Transcript No. 222.

Be it remembered that in the above entitled cause on appeal to the District Court of the United States for the Southern District of California, in the United States of America, from the decision of the United States Land Commissioners to ascertain and settle private land claims in the State of California.

The following proceedings were had, to wit:

Transcript from the Board of Commissioners in said case No. 222, on the Docket of said Board, filed and marked No. 2, on the Docket of this Court.

Filed Dec. 27, 1853.

(*Vide* page *et seq.*)

Notice of intention to prosecute appeal by the Attorney General of the United States.

Filed June 3d, 1854.

(*Vide* page 1.)

Upon which notice the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *Dec. 4th*, 1854.

Petition for review by the United States District Attorney for the Southern District of California, was filed.

(*Vide* page 3.)

LOS ANGELES, *May 7th*, 1855.

Answer to petition to review was filed.

(*Vide* page 7.)

LOS ANGELES, *Sept 29th*, 1855.

Notice for hearing by the U. S. Att'y, filed.

(*Vide* page 9.)

LOS ANGELES, *Oct. 4th*, 1855.

Motion of appellee and order to take additional testimony filed.

(*Vide* page 11.)

Deposition of Anastasio Carrillo, a witness for appellee, filed Oct. 9th, 1855.

(*Vide* page 13.)

Deposition of Estevan Ortega, a witness for appellee, filed Oct. 9th, 1855.

(*Vide* page 15.)

LOS ANGELES, *Oct. 11th*, 1855.

Case argued by Counsel for the respective parties, and submitted.

(*Vide* page 17.)

LOS ANGELES, *Oct. 12th*, 1855.

Decree rendered by Hon. I. S. K. Ogier.

(*Vide* page 17.)

LOS ANGELES, *Oct. 15th*, 1855.

Motion of U. S. Attorney for an appeal to the U. S. Supreme Court; granted.

(*Vide* page 18.)

(*Notice of Appeal.*)

ATTORNEY GENERAL'S OFFICE, *January 13th*, 1854.

JOHN KEYES, Claimant,
vs.
THE UNITED STATES. } No. 222.

You will please take notice, that an appeal in the above case from the Decision of the Commissioners, to ascertain and settle the private

land claims in the State of California, to the District Court of the United States, for the Southern District of California, will be prosecuted by the United States.

(Signed) C. CUSHING.
Attorney General.

ALEXANDER S. TAYLOR, Esq.,
Clerk of the U. S. Dis't Court, South'n Dis't of California.

Filed June 3d, 1854.

(Signed) A. S. TAYLOR.
Clerk.

(*Petition for Review.*)

In the District Court of the United States for the Southern District of California. Los Angeles County.

JOHN KEYES, Appelee, *ads.* THE UNITED STATES, Appl't, } No. 222, (Transcript,) No. No. 2, (Docket,) No.

To the Hon'ble Isaac S. K. Ogier, Judge of the District Court of the United States, for the Southern District of California.

The petition of Pacificus Ord, (of Monterey county,) Attorney of the United States for the Southern District of California, who petitions in this behalf for the United States; and being present here in Court in his proper person, in the name and behalf of the United States, represents, as follows:

That heretofore, to wit, on or about the 8th of May, 1852, John Keyes presented his petition to the Commissioners, to ascertain and settle the private land claims in the State of California, claiming a tract of land called "Sal-si-puedes," in the county of Santa Barbara, Cal'a, containing one square league and a half, a little more or less; and alleging that said tract of land was granted on the 28 (18th) of May, A. D. 1844, by Manuel Micheltorena, Governor of California, to Pedro Cordero. That on the 18th day of December, 1849, the said tract of land was duly surveyed and judicial possession given. That said Cordero sold and conveyed the same to him, and praying that the same be confirmed to him.

That on the 18th of December, 1852, the said Commissioners confirmed by final decree the said claim of John Keyes, for said land for one and a half square leagues.

That on the 27th of December, A. D. 1853, a duly certified transcript of the said decree and proceedings, and the papers and evidence on which it was founded in said cause was filed in the office of the Clerk of the District Court of the United States, in and for the Southern District of California, and marked 222, reference to which it is prayed may be had as a part of this petition.

That on or about the 12th of January, 1854, the Hon. Caleb Cushing, Attorney General of the United States, received a duly certified

duplicate of said certified transcript of the said final decree and proceedings in said cause, (No. 222,) by said Commissioners, and the papers and evidence on which the said decree was founded.

That on the 3d of June, A. D. 1854, the said Attorney General of the United States, filed or caused to be filed in behalf of the United States, a notice in writing, with the said Clerk of said District Court for the Southern District of California, that an appeal would be prosecuted by the United States, in said cause of John Keyes, vs. The United States, to the District Court of the United States for the Southern District of California.

Your petitioner further alleges, that the said land claimed as aforesaid is within the jurisdiction of the Honorable Court.

And your petitioner further alleges for and in behalf of the United States, that the said claim of said John Keyes for said land claimed and finally confirmed, by said Commissioners as aforesaid, is invalid on the following grounds:

1. That the said John Keyes shows no valid title to the land claimed by him.

2. That the said land so claimed by said John Keyes, is within ten (literal) leagues of the sea coast, and was not, therefore, subject to colinization or grant by Governor Micheltorena, without the previous approbation of the Supreme Executive power, which is not shown to have been given and was not had.

3. That the said land so claimed by said John Keyes and confi ed as aforesaid, was at the time of the alledged grant in occupancy of the Missions or Indians of Upper California, and was not, therefore, subject to colinization or grant by Governor Micheltorena.

4. That if the land was alienated by the original grantee as alleged by claimants, then the first condition of the grant against alienation was broken.

5. That the second condition of the grant requiring the grantee to build a house on the land within a year, and that it should be inhabited, was broken and not performed. That the grantee did not ask for the judicial possession of the land within a reasonable time. That he could not lawfully occupy the land alleged to have been granted, until after obtaining judicial possession of the same. That said land was never segregated.

5. That the fourth condition of the said alleged grant that the proper magistrate who should give possession of the land, should have it measured in conformity with the ordinance, leaving the surplus to the nation, was not performed.

6. That the said alleged grant to said Pedro Cordero was never confirmed by the Departmental Assembly of California, having been made subject to such comfirmation, and which was required by law.

7. That the description of the land in said alleged grant is vague and uncertain, and does not correspond with, and is not aided by the map shown, which is also indefinite.

8. That the alleged judicial possession of said land to said grantee

on the 18th December, 1849, was illegal and void, that there is no proof that Raymundo Carrillo, who, it is pretended was first Alcalde at that time, was such, and there is no proof that he had any authority to give judicial possession, and petitioner alleges that he had no jurisdiction if he was Alcalde at that time over the subject matter.

9. If Pedro Cordero ever had a valid title to the land claimed by John Keyes, he, said claimant, wholly fails to show a sufficient and valid title in himself under said Pedro Cordero or his legal representatives.

The copy of the document dated February 1st, 1821, and marked Y. in the said transcript on file in said Clerk's office, is not as it is pretended, a relinquishment of the heirs of Pedro Cordero of the said tract of land described and called in the alleged original grant "Cañada De Salsepuedes" to the claimant John Keyes. There is no evidence of the death of the said Pedro Cordero, or that he died intestate. There is no evidence that the persons and pretended signers of the said document Y., are his lawful heirs of said land claimed, and that they are his sole heirs to the same. There is no evidence that the persons signing or pretending to sign said document Y., have the capacity to contract. It is not signed, sealed, delivered, witnessed, and acknowledged according to law, and that the copy of the document marked X., dated 20th of March, 1850, is not a deed of conveyance or any other kind of valid title of Pedro Cordero in favor of the said John Keyes claimant, for the said tract of land, described and called in said alleged original grant, "Cañada de Salsipuedes." It is nothing more than a contract for the sale and delivery of cattle between Pedro Cordero and John Keyes. It is not shown that the latter person is the John Keyes, the present claimant.

Wherefore the said Pacificios Ord, Attorney of the United States for the Southern District of California, for and in behalf of the United Stated by reason of the premises and the laws and statutes in such case made and provided, prays that the said John Keyes or his Attorney may be served with a copy of this petition, and that this honorable Court will review the said decsion or final decree of said Commissioners to ascertain and settle the private land claims in the State of California, and decide on the validity of said claim of said John Keyes for said land, and that the same may be decreed invalid, and such other orders, judgments, or decrees as may be just, with costs and general relief.

P. ORD,

Attorney of the United States for the Southern District of California.

Filed Dec. 4, 1854.

C. E. CARR,

Clk.

A certified copy of the above petition, with summons, was served on the defendant by the U. S. Marshal, April 3d, 1855.

(*Answer of Appellee.*)

In the District Court of the United States for the Southern District of California, Los Angeles County.

JOHN KAYES, Appellee, *ads.* THE UNITED STATES, Appellant. } No. 2. Transcript No. 222.

John Kays, Appellee, by A. F. Hinchman, his Attorney, in answer to the petition of P. Ord, Esq., District Attorney in behalf of the United States; Appellant, says:—

That on the 28th day of May, A. D. 1844, Manuel Micheltorena, then Governor of the Californias by virtue of said office, and as agent of the Mexican nation, granted to Pedro Cordero, a Mexican citizen, a certain tract of land called and known as "Sal-si-puedes," containing one and a half Mexican square leagues, a little more or less, situated in what is now the County of Santa Barbara, that on the 18th day of December, A. D. 1849, said land was officially surveyed, and judicial possession thereof given to the said Pedro Cordero in due form of law by Raymundo Carillo, then a first Alcalde, within whose jurisdiction as such said land was situate, and thereafter as well as from and after the date of said grant, all acts and conditions requisite by law or by the terms of said grant to be done and complied with by said Pedro Cordero, in order to render said grant definite, absolute, and valid, were by the said Pedro Cordero done and complied with within the times limited by law, and by the terms of said grant, that afterwards and before the year 1851, the said Appellee purchased from the said Pedro Cordero, all the right, title, and interest of the said Pedro Cordero in said tract of land, and the said Cordero and his heirs at law did, before the commencement of the year 1851, execute and deliver to the said John Kays, deeds, instruments of sale, and releases sufficient to convey the said land to him, the said Appellee in fee simple. And the said Appellee further says, that the said Pedro Cordero, from and after the date of said grant from said Micheltorena up to the time of the purchase as aforesaid by the Appellee, occupied the said land, and within one year after the date of said grant, built a house upon the same, and the said Appellee ever since the date of his purchase as aforesaid from said Cordero has occupied the same.

And the said Appellee prays that the certified transcript of the decree of the Board of Commissioners to ascertain and settle private land claims in the State of California, confirming the claim of the said Appellee to said land, and of the proceedings, papers, and evidence on which the same was founded, which said transcript is now on file in the office of the clerk of the District Court of the United States for the Southern District of California, marked number , may be deemed a part of this answer, and reference thereto be had.

And the Appellee denies that said land is within ten leagues of the coast, or if so, that said grant to Pedro Cordero was thereby rendered invalid or unlawful.

He further denies that said land was at the time of said grant occupied by any mission or any Indians, or if so, that said lands were not subject to colonization or grant.

He further denies that his claim and title as confirmed by said Board of Commissioner is in any wise affected by any condition in said grant concerning alienation as alleged in appellants petition.

He further alleges that said grant was confirmed by the *the* Departmental Assembly, or if not, that the want of such confirmation does not avoid the grant.

He further alleges that the boundaries and description of said tract of land, are sufficiently set forth in this grant by Micheltorena, and likewise are well ascertained and defined in the judicial record of surveys aforementioned, and that said land has been thereby segregated from the public domain, and that said boundaries are well known.

And the said Appellee alleges that at the time of filing his petition for the confirmation of said grant, before the said Board of Commissioners, he had, and has ever since had, a good, sufficient, and valid title in fee simple to the whole of the lands claimed in said petition, and described in said grant and decree of confirmation; and he asks that said decree be affirmed, and this appeal be dismissed with costs.

(Signed) A. F. HINCHMAN,
Att'y for Appellee.

(*Amendment by consent.*)

The appellee admits the jurisdiction of this Hon'ble District Court, as is alleged in the petition of appellant, and also that a copy of the Transcript was transmitted to the Att'y Gen'l of the United States, and received as is alleged, and also that a notice of intention to prosecute this appeal was duly filed.

(Signed) A. F. HINCHMAN,
Att'y for Appellee.

Filed May 7th, 1855.

C. E. CARR,
Cl'k.

A certified copy of the above answer was served by the U. S. Marshall on the District Att'y, Aug. 16, 1855.

(*Notice for hearing by the U S Attorney.*)

In the District Court of the United States for the Southern District of California.

Hon. Isaac S. K. Ogier, Judge.

JOHN KEYES, Appellee, } No. 2.
ads. } (Transcript No. 222.)
THE UNITED STATES, Appellant, } Special term, 1855.

TO JOHN KEYES OR HIS ATTORNIES.

Please take notice that the appellant in the above entitled cause,

will call the said cause for hearing on Friday the 5th of October, A. D. 1855, or as soon thereafter as the same can be heard by the Court.

(Signed) P. ORD.
Att'y of the U. States for the Southern Dist. of Cal.

Filed September 29th, 1855.

(Signed) C. E. CARR,
Cl'k.
By J. W. ROSS,
Dep.

(*Order to take additional testimony.*)

LOS ANGELES, Oct. 4th, 1855.

JOHN KEYES, Appellee,
ads.
THE UNITED STATES. } No. 2.

On motion of A. F. Hinchman, attorney for appellee, it is ordered that either party in the above entitled cause, have leave to take additional testimony.

Filed Oct., 4th, 1855.

(Signed) C. E. CARR.
Cl'k.

Deposition of Anasto. Carrillo.

THE UNITED STATES, Appellant,
vs.
JOHN KEYES, Appellee. } No. 2

Deposition of Anastasio Carrillo, a witness for appellee, taken before me Charles E. Carr, U. States Commissioner for the Southern Dist. of California at my office at Los Angeles, the 9th day of October 1855, to be read in evidence on the trial of the case—

W. G. DRYDEN, sworn as Interpreter—

B. ORD.
U. S. Att'y,
and A. F. HINCHMAN,
for appellee.

Anastasio Carrillo sworn says,

Ques. What is your name, age and place of residence?

Ans. My name is Anastasio Carrillo, my age 67, and I reside in the County of Santa Barbara.

Ques. Do you know that Rancho in Santa Barbara County occupied by John Keyes called "Sal-si-puedes."

Ans. I do.

Ques. Is it known among the people of that County by any other name, if so by what name?

Ans. It is only known as Sal-si-Puedes"—

Ques. Is not this Ranchó sometimes called "Piedras de lumbre."

Ans. It is not. But about three quarters of a league from the House of "Sal-si-Puedes—there is a spot called Piedras de lumbre, which is actually on the Ranchó of Sal-si-Puedes.

Ques. Look at the conveyance in the Transcript marked "Y." dated February *Feb'y.* 1st 1850, and state what lands you understand to be meant by the words, "The Farm called the Canada de Piedra de la lumbre" (Here the conveyance was interpreted to the witness.)

Ans. I understand it to mean the "Rancho of Sal-si-Puedes"—and this understanding is based upon my knowledge of the Rancho, the people and their customs.

Sworn to and subscribed before me this 9th day of Oct. 1855.

(Signed) C. E. CARR,
U. S. Com.

ANAST. CARRILLO.

Filed Oct. 9th 1855.

(Signed) C. E. CARR,
Clerk.

THE UNITED STATES, Appellant,
vs.
JOHN KEYES, Appellee. } No. 2.

Deposition of Estevan Ortega.

Deposition of Estevan Ortega, a witness on the part of appellee, taken before me Charles E. Carr, U. S. Commissioner for the Southern District of California, at my office in the city of Los Angeles, on the 9th day of October 1855 and to be read in evidence on the trial of this case.

Present P. ORD,
U. S. Att'y.
A. F. HINCHMAN,
Att'y for appellee.

W. G. DRYDEN, sworn as Interpreter.

Estevan Ortega being sworn, answers as follows.

Ques. What is your name, age and place of residence?

Ans. My name is Estevan Ortega, I am forty years of age and reside in the city of Santa Barbara.

Ques. How long have you resided in Santa Barbara County.

Ans. Thirty years.

Ques. Do you know the Ranchó of "Sal-si-puedes" in Santa Barbara County.

Ans. I do.

Ques. Is that Ranchó commonly known by any other name in that County?

Ans. It has not been known generally by any other name.

Ques. Do you know in that County a Ranchó called "Piedras de Lumbro?"

Ans. I do not.

Ques. Who is the present occupant of the Ranchó of Sal-si-puedes?

Ans. John Keyes.

Ques. Who occupied said Ranchó before the time of John Keyes?

Ans. The deceased Pedro Cordero.

Ques. Did you know the said Pedro Cordero?

Ans. Yes, I knew him.

Ques. When did he die?

Ans. In the year 1850.

Ques. Do you know what children he left at the time of his death, if so, state who they are.

Ans. Yes I do. He left Francisco, Pedro, Jose de Jesus, Carlos, Guadelupe, and Dolores now deceased.

Ques. Do you know that these children were recognized by their father during his life time as his legitimate children?

Ans. Yes they were.

Ques. Had Pedro Cordero any other legitimate children at the time of his death, than those you have mentioned?

Ans. He had no other.

Ques. Do you know Bernardino Lopez?

Ans. Yes.

Ques. What relation did he bear to the Family of Pedro Cordero?

Ans. He was the Son in Law of Cordero, married to Dolores who died.

Ques. When did Dolores die?

Ans. In the year 1850.

Ques. Is the place of "Sal-si-puedes" called by any other name?

Ans. No, but on the lands of "Sal-si-puedes," there is a notable place called "Piedra de lumbre," which latter is distant from the house of "Sal-si-puedes" about one league and a half.

Cross Examined by the U. S. Att'y.

Ques. How far is the Ranchó from the Sea Coast?

Ans. I do not know, I suppose it is about three hours ride.

Ques. In a direct line, what is the distance from the Ranchó to the Sea Coast?

Ans. I think it is about five or six leagues.

(Signed) ESTEVAN ORTEGA.

Sworn to and subscribed before me this 9th day of October A. D. 1855.

(Signed) C. E. CARR,
U. S. Com.

Filed Oct. 9th, 1855.

(Signed) C. E. CARR,
Clerk.

Los Angeles, Oct. 11th, 1855.

The United States, Appellant, vs. John Keyes, Appellee. } No. 2. "Sal-si-Puedes."

This cause coming on to be heard on this day and counsel for the respective parties being present, the case was presented on the Transcript from the Board of United States Land Commissioners notice of appeal and evidence on file in the case, and thereupon was submitted to the Court. After argument of counsel for final adjudication.

Los Angeles, Oct. 12th, 1855.

The United States, Appellants, vs. John Keyes, Appellees. } No. 2. "Sal-si-Puedes."

On this day the Court delivered their opinion affirming the decision of the Board of United States Land Commissioners and confirming the claim of the appellees herein, and a decree was ordered to be entered on the Records of this Court in accordance with said opinion, Which decree is as follows:

No. 2.

The United States, Appellant, vs. John Keyes, Appellee. } "Sal-se-Puedes." District Court of the United States for the Southern District of California.

This cause coming on to be heard at a special Term of this Court, on an appeal from the final decision of the Commissioners to ascertain and settle private land claims in the State of California, under the act of Congress, approved March 3d, 1851, upon the Transcript of the decision and proceedings, and the papers and evidence on which said decision was founded, and on additional evidence taken in this Court, and it appearing that said Transcript has been duly filed according to law and counsel for the respective parties having been heard. It is ordered, adjudged, and decreed that the decision of the said Commissioners be affirmed, and that the claim of the said John Keyes to the land described in the grant is a good and valid claim, and the same is hereby confirmed to the extent of one league and a half: Provided that the said quantity of one and a half league be contained within the limits called for in said grant and map to which it refers; but if there be less than said named quantity, then the claim of said appellee to said less quantity is hereby confirmed.

(Signed,) ISAAC S. K. OGIER,
U. States Dist. Judge for the Southern Dist. of California.

Filed Oct. 12, 1855.

(Signed,) C. E. CARR,
Clerk.

Order of Appeal.

LOS ANGELES, Oct. 15th, 1855.

The following order was made by the Court:

In the District Court of the United States for the Southern District of California, Los Angeles county.

Hon. ISAAC S. K. OGIER, Judge.

Special Term, September 1855.

JOHN KEYES, Appellee, } No. 2.
ads.
THE UNITED STATES, Appellant. } Transcript No. 222.

On motion of P. Ord, Attorney of the United States for the Southern District of California, It is ordered by the Court that an appeal be granted in favor of the United States, to the Supreme Court of the United States in the above entitled cause, from the Judgment of this Court against the United States rendered on or about the 12th of October, A. D. 1855.

P. ORD, U. S. Att'y. Oct. 15th, 1855.

Filed Oct. 15th, 1855.

[Signed] C. E. CARR,
Clerk.

United States District Court, Southern District of California,
Clerk's Office,

LOS ANGELES, November 22d, 1855.

I, Charles E. Carr, Clerk of the District Court of the United States, for the Southern District of California, do hereby certify the foregoing 19 pages numbered from 1 to 19, both inclusive to contain a true, correct, and full Transcript of the Record of the Proceedings and of the Decision of the said Court, of the Documentary evidence, and of the Testimony of the Witnesses upon which the same is founded, on file in the office in Case No. 2, on the Docket of the said Court, wherein John Keyes is appellee and the United States are appellant, for "Sal-si-Puedes."

In testimony whereof I have hereunto set my hand and affixed the seal of said Court, at Los Angeles, California, this twenty-second day of November, A. D. 1855, and of the Independence of the United States of America the eightieth.

[SEAL.] C. E. CARR,
Clerk.

41.

SUPREME COURT OF THE UNITED STATES.

No. 170.

THE UNITED STATES, APPELLANTS,

v.

JUAN WILSON.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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Transcript of proceedings in case No. 220, JUAN WILSON, claimant, *v.* UNITED STATES, defendant, for the place named Canada del Chorro.

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered, that on this seventh day of May, Anno Domini one thousand eight hundred and fifty-two, before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Juan Wilson,

For the place named "Canada del Chorro," was presented and ordered to be filed and docketed with No. 220, and is as follows, to wit: (Vide page 3 of this transcript.) Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, May 10th, 1852.

In case No. 220, Juan Wilson, the deposition of Pablo de la Guerra, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed and is in the words and figures as follows, to wit: (Vide page 5 of this transcript.)

SAN FRANCISCO, Jan. 4th, 1853.

In the same case the deposition of John Young, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed: (Vide page 6 of this transcript.)

SAN FRANCISCO, March 8th, 1853.

In the same the counsel for the claimant filed the following stipulation, to wit: (Vide page 24 of this transcript.)

SAN FRANCISCO, April 8th, 1853.

In the same case the counsel for the claimant filed the following stipulation, to wit: (Vide page 24 of this transcript.)

SAN FRANCISCO, April 11th, 1853.

On motion of the Associate Law Agent, case No. 206 was ordered to be placed on the trial docket.

SAN FRANCISCO, April 11th, 1853.

Case No. 220 called: the counsel for the claimant, Mr. Halleck, read the petition and the papers in evidence: the United States Associate Law Agent filed his brief, submitted and taken under advisement by the Board.

SAN FRANCISCO, April 22d, 1853.

A statement was read by the Commissioner, Hiland Hall, in behalf of the Board, accompanied with the opinion and the decree of final confirmation in case No. 220, and others therein mentioned, which statement is as follows, to wit: (Vide page 27 of this transcript). And which opinion and decree are as follows, to wit: (Vide page 29 of this transcript).

To the Honorable Commissioners to settle Private Land Claims in California.

Petition of John Wilson.

The petitioner, John Wilson, repectfully shows, that on the 10th day of October, A.D. 1845, Pico Pico, Governor of California, by virtue of authority in him vested, granted to the petitioner jointly with his partner in business, James Scott, the land called "Canada del Chorro," in the present County of San Luis Obispo, containing about one square league of land, with the boundaries described in the grant, and set forth in the corresponding map; which said grant was approved by the Assembly of California, on the 8th day of July, A.D. 1846, a copy of which grant and certificate of approval is submitted herewith, marked "A," with a translation marked "B."

That on the 15th day of May, A.D. 1846, the said tract of land was duly surveyed, and the judicial possession of it given to the said James Scott and the petitioner, his partner in business, in due form of law; a copy of which act of survey and possession is submitted herewith, marked "C," with a translation marked "D." That on the first day of June, 1848, the said Scott sold and conveyed his right and interest in the said tract of land to the petitioner, a copy of which conveyance is submitted herewith, marked "E," with a translation marked "F." And the petitioner further shows that the said tract of land has not been surveyed by the Surveyor-General of the United States, but that it was duly surveyed and its boundaries marked at the time of giving the judicial possession of it in 1846 as aforesaid, and since been surveyed by the County Surveyor of the County of San Luis Obispo, a copy of a plot of which survey is submitted herewith, marked G.

That petitioner has been ever since and before the date of the grant aforesaid, and now is in the quiet, peaceful, and undisturbed possession of the said tract of land. That he knows of no conflicting claim. That he relies for confirmation of title upon the original papers, copies of which are submitted herewith. And upon the records and minutes in the archives of under the charge of the Surveyor-General; and upon such other and further proof, as he may be advised are necessary.

Wherefore he prays the Commissioners to confirm to him the said tract of land.

By his Attorneys,
HALLECK, PEACHY & BILLINGS.

Filed in office, May 7th, 1852.

GEO. FISHER,
Secretary.

Deposition of Pablo de la Guerra.

OFFICE OF THE BOARD OF LAND COMMISSIONERS FOR CALIFORNIA.

SAN FRANCISCO, May 10th, 1852.

On this day, before me, Harry J. Thornton, one of the commissioners for ascertaining and settling private land claims in California, came Pablo de la Guerra, a witness produced in behalf of the claimant, John Wilson, whose petition is No. 220 on the docket of said commissioners, and after being duly testified as follows, the law agent of the United States was duly notified and attended.

1st Question. What is your name, age, and place of residence?

Answer. My name is Pablo de la Guerra; my age is thirty-two years; I reside in Santa Barbara, and have resided in California all my life.

2d Question. Are you acquainted with the signatures of Pio Pico, José Maria Covarrubias, Narciso Botello, Jose de Jesus Pico, J. Mariana Bevello, Pedro C. Carrillo, James Scott, John Wilson, and Thomas M. Robbins? and, if so, say whether their signatures to the documents before you are genuine, and whether the documents themselves are genuine and original; and whether the papers in exhibits "A," "C," and "E," filed in claim 220 in the office of the Secretary of the Commission, are correct copies of these originals?

Answer. I am acquainted with the signatures of Pio Pico, Jose Maria Covarrubias, Narciso Botello, José de Jesus Pico, J. Mariano Bovella, Pedro C. Carrillo, James Scott, Juan Wilson, and Thomas M. Robbins; their signatures to the documents before me are genuine; the documents themselves are genuine and originals. I have compared them with exhibits "A," "C," and "E," filed in claim No. 220 in the office of the Secretary of the Commissioners, and the latter to be correct copies of these originals.

(Signed) PABLO DE LA GUERRA.

The United States Law Agent present, sworn to and subscribed before me this 10th of May, 1852.

HARRY J. THORNTON,
Commissioner.

Filed in office May 10th, 1852.

Deposition of John Young.

SAN FRANCISCO, January 4, 1853.

On this day, before me, Commissioner Harry J. Thornton, came John Young, a witness in behalf of the claimant, Juan Wilson, petition 220, and was duly sworn, his evidence being given in English. The United States Law Agent was present.

Questions by Claimant's counsel.

My name is John Young; my age is twenty-eight years; I reside in Santa Clara County, and have lived in California nine years. I am acquainted with the "Cañada del Chorro;" it is situated in the county of San Luis Obispo; it has been occupied by John Wilson, the present claimant, since 1845, with cattle and horses, and a part of it has been cultivated; he has a house on it the present time, and occupies the land. JOHN YOUNG.

Sworn to and subscribed before me, this 4th of January, 1853.
HARRY J. THORNTON.

Filed in office January 4th, 1853.
GEORGE FISHER,
Secretary.

Doc. A and C, annexed to Deposition of Pablo de la Guerra.

Año de 1846, espediente formado en la posesion juridica 9ª se dio á Don Juan Wilson, en el terreno que en los autos se verá.

Pio Pico, vocal Decano de la Asamblea departamental y Gobernador provisional de las Californias por ministerio constitucional.

Por Cuanto Don Diego Scott y Don Juan Wilson han pretendido para su beneficio personal y el de sus familias el terreno conocido con el nombre de Cañada del Chorro, que se encuentra valdio entre tierras de Guadalupe Cantua de los Indigenes Romnaldo y Toribes y del Rancho de la Canada de los Osos; practicadas previamente las averiguaciones concernientes segun lo dispuerto por leyes y reglamentos de la materia usando de las facultades que me son conferidas á nombre de la nacion Mejicana, he venido por decreto de este dia en concedertes el espresado terreno, declarandoles la propriedad de el por las presentes letras de conformidad con la ley de 18 de Agosto de 1824 y reglamento de 21 de Noviembre de 1828, á reserva de la aprobacion de la Exmā Asamblea y bajo las condiciones signientes.

1ª Podran cercarlo sin perjudicar las travesias caminos y servidumbres y lo disfrutaran libre y exclusivamente destinandole al uso y cultivo que mas les acomode, en la intelligencia que se les concede en compliacion del terreno que poseen nombrado Canada de los Osos.

2ª El terreno de que se les hace donacion es de la estencion de un sitio de ganado mayor ó algo menos, segun demuestra el diseno que obra en el espediente; El juez respectivo les dara la posecion juridica en virtud de este despacho y demarcará los linderos con las mojoneras necesarias.

En consecuencia mando que teniendose el presente titulo por firme y valedero se tome razon de el en el libro respectivo y se entregne á los interesados para su resguardo y demas fines. Dado en la Ciudad de los Angeles, en este papel comun por falta del Sellado que corresponde, á diez de Octubre de mil ocho cientos cuarenta y cinco.

PIO PICO.
JOSE MA. COVARRUBIAS,
Sec.

Queda tomada razon de este titulo en el libro respectivo.

ANGELES, fecha ut supra.
COVARRUBIAS.

NARCISO BOTELLO,
Diputado Secretario de la El Asamblea Departamental de California.

Certifico qe. en Sesion de esta dia aprobó la Exma Asamblea la concesion hecha pr. el Gobierno Departamental a favor de Dn. Diego Scott y Dn. Juan Wilson del paraje del Chorro, en estension de un sitio del ganado mayor algo menos en ampliacian al qe. poseen, segun titulo librado á su beneficio y de sus familias con fha. 10 de Octubre ultimo y para qe. los interesados puedan Ocurrir al E. S. Gobernador pr. el titulo de aprobacion respectivo, libro la presente en cumplimiento al acnerda de dicha E. Asamblea; en la Ciudad de los Angeles á 8 de Julio de 1846.

NARCISO BOTTELLO.

Sor Juez de Paz.

San Luis Obispo, Mayo 13 de 1846.

Juan Wilson vecino del Partido de Santa Barbara ante V. como mejor proceda digo: que en virtud de haberseme concedido pr. el Exmo Sor Governador de este Departamento un terreno el cual se vera pr. el titulo, qe. debidamente acompano, solicito tenga V. a bien darme posecion juridica del terreno indicado serviendose al efecto, citar el dia y hora en que pueda verificarse por tanto.

De conformidad con lo pedido preveia citacion de los colindantes para el Viernes 15 del corriente se le dará al interesado la posecion juridica qe. pretende Asi lo decrete y firme yo el Juez de Paz de esta Demarcacion

PICO.

A. V. suplico axceda a mi favor lo qe. recibire gracia y quedare reconocido, &c., dispensandome este papel comun pr. falta de Sellado.

SCOTT & WILSON.

San Luis Obispo, Mayo 13 de 1846.

En el pueblo de San Luis Obispo a los trese dias del mes de Mayo del ano de mil ocho cientos cuarenta y seis siendo presente Dn. Juan Wilson le hice saber el auto anterior y dyo: lo oye y es conforme de lo que doy fee con los testigos de asistencia pr. Pr. falta de Escribano.

J. DE JESUS PICO.

JOSE GARCIA,
Asa.

JOSE MARNO. BONILLO,
Assa.

San Luis Obispo, Mayo 14 de 1846.

Con esta fha: se citaron a los Senores Dn. Guadalupe Cantua, Dn. Victor Genares y Dn. Mariana Bonillo, el primero colindante con el terreno concedido a Dn. Juan Wilson pr. la parte del O. cuarta N. O. y el segundo representando en lugar del Sor Olibiot tambien colindante con el espresado terreno y el tercero pa. que senale el termino y limites de las tierras de Toribeo y Romualdo pa. que concurrieran al paraje conocido con el nombre del Chorro el dia 15 de Mayo a las once del dia y ser. asento pr. diligencia qe. forme con los de asistencia.

J. DE JESUS PICO.

JOSE GARCIA, Asa. J. MARNO. BONILLO, Asa.

En el paraje del Chorro a los Quince dias del mes de Mayo del ano de mil y ocho cientos cuarenta y seis siendo presente yo el Juez de Paz y los de Asistencia megaron los Senores Guadalupe Cantua, Victor Genares y Jose Mariano Bonilla pa. la Cita con qe. les hizo y yo ascente pr. diligencias qe. xubrique. En el mismo parage, dia, mex y ano yo el Juez de Paz de la Demarcacion de San Luis Obispo acompanado de los de Asistencia y siendo presente Dn. Juan Wilson pa. falta de un perito agrimensor, dispuse nombrar dos medidores cordeleros y al efecto nombre de los concurrentes a los Individuos Agustin Martinez y Vicente Feliz a quienes habiendo aceptado el encargo les tome juramento qe. hicieron pr. Dios nstro: Sor y la Santa Cruz, de desenpenar fielmente su nombramiento y lo asente pr. diligencia qe. firme con los de Asistencia.

J. DE JESUS PICO.

JOSE GARCIA, Asa. J. MARNO. BONILLA, Asa.

En segunda en el mismo parage, dia mez y ano yo el Juez de Paz de la Demarcacion de San Luis Obispo con los de mi Asistencia dispuse se midiera un Cordel de Cien varas para con el efectuar las medidas del terreno y al efecto se midio un Cordel de Pita de cien Varas Castellanas y en sus extremas se ataron dos estacas, lo cual asente pr. diligencia qe. firme con los de Asistencia.

J. DE JESUS PICO.

JOSE GARCIA, Asa. J. MARNO. BONILLO, Asa.

A continuacion en el mismo parage dia mes y año yo el Juez de la Demarcacion de San Luis Obispo, acompañado los de Asistencia y concurrentes y a citados, con objecto de comenzar las medidas pasamos á ponde se encuentra el lindero del Rancho de los Asos, y el

de Dn. Guadalupe Cantua, cuyo punto queda demarcado, con el nombre de la piedra grande, qe. esta al pic del serro, qe. Uaman de Romualdo, tomando los Cordeleros el Cordel, para sus extremos se comenzó á medir acia el Rumbo de N. cuarta N. E. hasta llegar a unos encinos que se ben en la Cuchilla mas immediate á la Sierra del penal cuyo punto queda demarcado pr. un portesuelo, que se haya al frente en el espinaso de la citada Sierra y hasta alli se encontraron cincuenta cordeles: y se continuo la medida pa. el rumbo E., cuarta S. E., hasta llegar á los linderos de Olibiet, y queda señalado este lugar con una cañada de donde comiensa el arroyo qe. llaman del Chorro, en lo qe. se contaron veinte y nueve Cordeles: se signieron las medidas pr. toda la Orilla del mencionado Arrollo, hasta colindar con las tierras de Romnaldo al rumbo de S., cuarto S. O., en donde se contaron treinta cordeles de alli se continuo al poniente y termino con la misma piedra de donde se comenzo: á la midicion del citado terreno, y se contaron veinte y nueve cordeles; con le que fueron concluidas las medidas y señalado los terminos y linderos, bajo la circumferencia de trese mil ocho cientos varas: Concluidas de este modo las referidas medidas, y siendo conformes los colindantes no habiendo oposicion pa. ninguno, pa. perfeccionar el acto en presencia de todos los concurrentes tome para la mana á Dn. Juan Wilson, y en voz clara le dijo:

En nombre de la nacion Mejicana doy á V. pocecion del terreno, que se le ha concedido a V. y qe. ahora, se ha medido y mandandole qe. hiciese alguna demonstracion de haber adquirodo el dominio, util y directo y con tal la propiedad de aquel terreno como dueño unico de el, cavó la tierra arranco yerba y tiró piedras, con lo cual se concluyó el acto, habiendo pedido à este tiempo Dn. Juan Wilson, se le entregaren estas diligiencias originales, Originales pa. cuya constancia lo firme, con los de Asistencia.

J. DE JESUS PICO.
JOSE GARCIA,
J. MAR'NO BONILLA,
Assa.

San Luis Obispo, Mayo 16de, 1846.

Devuelvare estas diligencias al interesado originales pa. testimonio de adquisicion de propriedad, y el uso que mejor le convenga, y tomese razon en el libro correspondiente.

PICO.

San Luis Obispo, Mayo 17de, 1846.

Attendido el acto anterior se le devolvieron al interesado estas diligencias originales, en sieto fojas utiles y lo asenté pr. diligencia que rubriqué.

Queda tomado razon en el libro, respectivo de este Juzgado á fojas 5, 6, 7 y 8 fha ut supra.

J. DE JESUS PICO.

Filed in Office, December 29th, 1852.

GEORGE FISHER,
Secretary.

[For map, see original, page 15.]

Pio Pico, Senor Vocal of the Departmental Assembly and ex-officio Provisional Governor of the Californias.

Translation of Title, &c.

Whereas, Don Diego Scott and Don Juan Wilson have for their personal benefit and that of their families, petitioned for the land known by the name of "Canada del Chorro," which is vacant, between the lands of Guadalupe Cantua, those of the Indians Romualdo and Toribo, and for the rancho of the Canada de los Osos; the necessary examinations having previously been made as required by laws and regulations on the matter, using the faculties which are conferred on me in the name of the Mexican nation, I have in decree of this day granted them the aforesaid land, declaring to them the ownership of it by these presents, in conformity with the laws of August 18th, 1824, and regulations of Nov. 21st, 1828; subject to the approval of the Most Excellent Assembly and under the following conditions, viz.:

1st. They may inclose it without prejudice to the cross-roads and servitudes, and enjoy it freely and exclusively, making such use and cultivation of it as they may see fit, with the understanding that this is granted as an extension of the land which they possess, called Canada de los Osos.

2d. The land thus granted in donation, is in extent one sitio de ganada mayor (one square league) or somewhat less, as shown on the map which goes with the espediente; the proper magistrate will give them judicial possession in virtue of this order, and will make out the boundaries with the necessary landmarks.

In consequence, I order that this title, being held as firm and valid, note be made of it in the proper book, and to be delivered to the parties interested, for their security and other purposes.

Given in the city of Los Angeles, on this common paper for want of stamped, which corresponds, on the 10th day of October, one thousand eight hundred and forty-five.

(Signed) PIO PICO.

NARCISO BOTELLO,
Secretary.

Note has been taken of this title in the proper book. Date as above. (Signed) COVARRUBIAS.

Narcis Botello, Deputy Secretary of the Excellent Departmental Assembly of the Californias:

I certify, that in session of this day, the Most Excellent Assembly approved the grant made by the Departmental Government in favor

of Don Diego Scott and Don Juan Wilson, of the place of the Chorro, in extent one sitio de ganado mayor (one square league), or somewhat less, in addition to that which they possess according to the title executed for their benefit and that of their families, dated 10th October, ult., and that the parties interested may apply to his excellency the Governor, for the respective title of approbation. I issue them these presents, in compliance with the order of said Assembly in the city of Los Angeles, July 8th, 1846.

(Signed) NARCISO BOTELLO.

I hereby certify the foregoing to be a true and correct translation from the original Spanish document on file in this office in case 220, Juan Wilson, for the place named Canada del Chorro, marked A & C, annexed to the deposition of Pablo de la Guerra.

GEO. FISHER,
Secretary.

Filed May 7th, 1852. GEO. FISHER,
Secretary.

Translation of Judicial Possession.

To the Justice of the Peace.

San Luis Obispo,
May 13, 1846.

Juan Wilson, resident in the Partido of Santa Barbara, before you in the proper manner, represents that in virtue of his Excellency the Governor of this Department having granted him a piece of land, as will be seen by the title which he duly transmits herewith, he prays that you will see fit to give him the judicial possession of said land, and be pleased to name the day and hour on which to verify it. Therefore he prays you to grant as he requests, by which he will receive grace, and will acknowledge the favor, &c., excusing this common paper for want of stamped.

(Signed) SCOTT & WILSON.

San Luis Obispo, May 13, 1846.

In compliance with this petition, on Friday, the 15th inst., Judicial possession will be given as requested, the Colindantes being previously cited. Thus I, the Justice of the Peace of this demarcation, decreed and signed.

(Signed) PICO.

In the pueblo of San Luis Obispo, on the thirteenth day of the month of May, in the year one thousand eight hundred and forty-six, Don Juan Wilson being present, I informed him of the preceding order, and he acknowledged notice, which I certify with the assisting witnesses, for want of a notary.

(Signed) JOSE DE JESUS PICO.
Assisting Witnesses. (Signed) JOSE GARCIA,
(Signed) J. MAR'NO BONILLO.

SAN LUIS OBISPO, May 14th, 1846.

On this day we summoned Don Guadalupe Cantua, Don Victor Lanares, and Don Mariano Bonello, the first Colindante, with the land granted to Don Juan Wilson, on the west quarter northwest; the second representing Senor Oliviet, also a Colindante with the said land, and the third to show the boundaries and limits of the lands of Toribio and Ronnoldo, that they should meet at the place known by the name of the Chorro, the 15th day of May, at eleven o'clock, and I noted it officially, and signed with those of assistance.

(Signed) J. DE JESUS PICO.
Assisting Witnesses. (Signed) JOSE GARCIAS.
(Signed) MARIANO BORELLO.

In the place of the Chorro, on the 15th day of the month of May, one thousand eight hundred and forty-six, present: I, the Justice of the Peace, and assisting witnesses, there arrived the Senors Guadalupe Canuta, Victor Linares, and Jose Mariano Bonillo, for the summons, which was made them, and I made official note of it, which I signed in rubric.

(Rubric of J. DE J. PICO.)

In the same place, and day, month, and year, I, the Justice of the Peace of the Demarcation of San Luis Obispo, accompanied by those of my assistance, and being present, Don Juan Wilson, for want of a professional surveyor, I decide to appoint two measuring rope-bearers, and did appoint from the bystanders the individuals Augustin Martinez and Vicente Feliz, of whom, after having accepted the office, I required an oath, which they made, by God our Lord and the Holy Cross, to discharge faithfully their appointment, and I made official note of it, and signed it with the assisting witnesses.

(Signed) J. DE JESUS PICO.
Assisting Witnesses. (Signed) JOSE GARCIA,
(Signed) JOSE MARIANO BONILLO.

In continuation, in the same place, day, month, and year, I, the Justice of the Peace of the demarcation of San Luis Obispo, with the assisting witnesses, directed a cord to be measured one hundred varas long, with which to make the measures of the land, and a rope of pita (grass-rope) was measured one hundred Spanish varas long, and two stakes were tied to its extremities, which I noted officially, and signed with assisting witnesses.

(Signed) JOSE DE JESUS PICO.
Assisting Witnesses: (Signed) JOSE GARCIA,
(Signed) JOSE MARIANO BONILLO.

In continuation, in the same place, day, month, and year, and the magistrate of the Demarcation of San Luis Obispo, accompanied by

those of assistance and bystanders before mentioned, for the purpose of commencing the survey, we went to the place where meet the boundaries of Rancho of Los Osos, and that of Don Guadalupe Cantua, which place is designated by the name of Piedra Grande, which is at the foot of the Cerro, which is called Romualdo; and the rope-bearers, taking the cordel by its extremities and stakes, commenced to measure N. ¼ E. to some oaks, which are seen on the ridge nearest to the "Sierra del Pinal," which point is marked by a portezuelo, which is opposite to it on the main ridge of said Sierra, distant fifty cordels; thence the measurement was continued E. ¼ S. E. to the boundaries of Oliviet, and this place is marked by a Canada, in which the arroyo, which is called of the Chorro, commences, distant twenty-nine cordels; thence they measured down the said arroyo to the boundaries of the lands of Romualdo in the direction S. ¼ S. W. distant thirty cordels; thence it was continued westerly, and ended at the same rock where the measurements were commenced of said land, distant twenty-nine cordels, with which the measurements were finished and the boundaries designated; the sum of which was thirteen thousand eight hundred varas; said survey being thus finished, and the colindantes assenting, and there no opposition of any person to perfect the act; in the presence of all the bystanders, I took by the hand Don Juan Wilson, and, in a loud voice, said to him: In the name of the Mexican nation, I give you possession of the land which has granted to you, and now measured, and having directed him to make some demonstration of having acquired the useful and direct dominion, and with it the ownership of said land as the sole lord of it, he dug up earth, pulled up grass, and threw stones, with which the act was finished.

Don Juan Wilson having at this time requested that these original official documents be delivered to him, in testimony of which I signed with those of assistance.

(Signed) JOSE DE JESUS PICO.
Assisting Witnesses: (Signed) JOSE GARCIA,
(Signed) J. MARIANO BONILLO.

San Luis Obispo, May 16th, 1846.

Let these original official documents be delivered to the party interested, in testimony of acquisition of ownership and the use he may think proper, and let note be taken in the corresponding book.

(Signed) PICO.

San Luis Obispo, May 17th, 1846.

In compliance with the foregoing order, the original official papers were returned to the party interested, in seven folios, and I made official note of it, which I signed in rubric.

Rubric of J. PICO.

Note has been made in the proper book at this office, in folio 5, 6, 7, and 8.

(Signed) JOSE DE JESUS PICO.

I certify the foregoing to be a true and correct translation from the original Spanish document on file in this office in case No. 220, Juan Wilson, for the place named Canada del Chorro, being a part of document marked A & C, and annexed to the deposition of Pablo de la Guerra.

GEORGE FISHER,
Secretary.

May 10th, 1852.

Filed in office, May 22d, 1853.

GEORGE FISHER,
Secretary.

No. 220.

Before the U. S. Land Commission. Stipulation in the claim of John Wilson to the Canada del Chorro.

In this case, it is agreed between the counsel for the claimant and the law-agent of the United States, that all the laws, decrees, ordinances, and regulations, whether of Spain or Mexico, and especially the Colonization-law of Mexico, passed August 18th, 1824, and the regulations made by the Supreme Executive power of Mexico, on the 21st of November, 1828, shall be considered as having been offered in evidence, in this case, and duly proven.

HALLECK, PEACHY & BILLINGS,
Counsel for Claimant.

R. GREEHOW,
Assistant Law-Agent.

Filed in office, March 8th, 1853.

GEORGE FISHER,
Secretary.

Before the United States Land Commission. Stipulation in the case of John Wilson to "Canada del Chorro," No. 220 on Commissioners' Docket.

The law-agent on the part of the United States admits the genuineness and the execution of the original deed of transfer of James Scott to John Wilson, of his right in the land called "Canada del Chorro," dated June 1st, 1848, and filed in this case, marked E.

ROBERT GREENHOW,
Assistant Law-Agent.

Filed in office, April 8th, 1853.

GEORGE FISHER,
Secretary.

E.

En el Pueblo de Santa Barbara a primer de Junio de mil ocho cientos cuarenta y ocho, comparecieron ante mi Pedro C. Carillo Juez de primera instancia de dicho pueblo y su jurisdiccion los Senores Don Diego Scott y Don Juan Wilson y dijeron que Diego Scott cede a favor de Don Juan Wilson todo su derecho que tiene en los parajes conocidos con el nombre de Canada de los Osos y el Chorro en la jurisdiccion de San Luis Obispo igualmente obligandose Don Juan Wilson al debido y exacto cumplimiento de los articulos siete y nuebe del contrato celebrado y ratificado en este Juzgado entre ambos en esta misma fecha, doy fee.

Santa Barbara, Junio 1, de 1848.

(Firmado) PEDRO C. CARILLO,
(Firmado) JAMES SCOTT,
(Firmado) JAMES WILSON.

Assa. (Firmado) EDWARD A. KING,
TOMAS M. ROBBINS.

Filed in Office, May 7th, 1852.

GEO. FISHER,
Secretary.

F.

Translation of Transfer from Scott to Wilson.

In the Pueblo of Santa Barbara, on the first of June, eighteen hundred and forty-eight, before me, Pedro C. Carrillo, Judge of First Instance of said Pueblo and its jurisdiction, appeared Don Diego Scott and Don Juan Wilson, and said: that Diego Scott cedes, in favor of Don Juan Wilson, all the rights which he has to the places known by the names of "Canada de los Osos," and "El Chorro," in the jurisdiction of San Luis Obispo. Don Juan Wilson also binding himself to the due and exact compliance of the seventh and ninth articles of the contract, executed and ratified in this Court between them both on this day. I certify.

Santa Barbara, June 1st, 1848.

(Signed) PEDRO C. CARRILLO,
(Signed) JAMES SCOTT,
(Signed) JOHN WILSON.

Assisting Witnesses: (Signed) EDW'D A. KING,
(Signed) THOMAS M. ROBBINS.

I certify the foregoing to be a true and correct translation from a Spanish document filed in this office, in Case No. 220, Juan Wilson, for the place named "Canada del Chorro."

GEO. FISHER,
Secretary.

Filed in office, May 7th, 1852.

GEO. FISHER,
Secretary.

The following cases were submitted for our decision, as Commissioners of California Land Claims, on the 11th day of April, 1853, viz.:

Statement.

No. 16	Heirs of Henry D. Fitch,	Claimants.
" 164	Heirs of F. Guerrero,	"
" 166	Heirs of Edward A. Bale and others,	"
" 218	John Wilson,	"
" 146	Samuel Norris,	"
" 49	Jose Carrillo and others,	"
" 165	Jacob P. Leese,	"
" 220	John Wilson,	"
" 86	Jasper O. Ferrel,	"

In all of these cases opinions and decrees were formed and written out by us as Commissioners, and signed by the Commissioner who wrote them, prior to any notice whatever of our removal, and were held up for delivery until Monday the 18th instant, the day appointed by us for their entry, when according to our established course of doing business, the blanks which had been left for the dates would have been filled up, and the signature, if not before made, of the other Commissioners would have been appended.

On the 15th instant the mail steamer arrived, bringing newspapers stating that we had been removed from office and successors appointed, and on the 19th instant, a notice, purporting to be signed by the chief clerk of the Department of the Interior, stating our removal and the appointment of our successors was also seen by us in the National Intelligencer. No other knowledge or notice of our removal has come to us. Under this state of facts, we, this 22d day of April, 1853, complete the signature of said decrees as of the day they were intended to have been made, and file them with the Secretary of the Board, filing also with the Secretary this statement for the information of all concerned.

HILAND H. HALL.
HARRY .J THORNTON.

Filed in office, April 22d, 1853.

GEO. FISHER,
Secretary.

U. S. Land Commission for California, San Francisco. No. 220, "Canada del Chorro."

JOHN WILSON, claimant,
v.
The UNITED STATES.

Opinion of Board by Commissioner H. J. Thornton.

The claim in this case presented, is founded upon a grant made by Pio Pico, Governor of California, to the claimant, and one Diego

James Scott, in virtue of the decree of the 18th of August, 1824, of the Ordinance of the 21st of November, 1828, of the Mexican Government. The grant is for one square league or somewhat less, which alternative terms are inoperative or insignificant, except as they intimate a restriction of the grant within the boundaries of the deceno. By a statement of the custodian of the Archives of the former Government of the country, which is agreed to be taken as evidence, by the production of the original documentary evidence of title, and by the other testimony in the case, it satisfactorily appears that the grant was duly made by competent authority, on the 10th of October, 1845; that it was approved by the Departmental Assembly, on the 8th of July, 1846; that a measurement and juridical possession was had of the premises, in May, 1846; that the requirement of the law and of the grant as occupation or cultivation was fully complied with, and that the interest of the joint grantee Scott, was regularly conveyed to the claimant. Having decided already in many cases, that the approval by the Departmental Assembly of the grant of the Governor did not constitute such a necessary ingredient in the investiture of any right or title, as that the failure of the Governor to procure it would prevent a confirmation, under the Act of the 3d March, 1851, it is not thought necessary to do more than merely advert to the fact, that the approval in this case was made after the 7th of July, 1846, the day on which the American Flag was hoisted, and the rule of the country asserted by the authority of the United States.

In accordance with the principles laid down for our Government, in the 11th section of the Act of the 3d of March, 1851, and with decisions previously made by this Board, the claim is held to be valid, and we proceed to enter the following decree of confirmation. Commissioner Hall concurs in the result.

HARRY J. THORNTON.

Decree of Confirmation.

This Board, upon full consideration of the various grounds affecting the validity of the said claim, having come to the conclusion that the same is valid—therefore now proceeds to make, and does hereby make the following decree or report of final confirmation, viz.: It is decreed that the said claim be confirmed to the claimant, to the extent and quantity of one square league, and for no more, being the same land described in the grant and espediente to which the grant refers, and of which the claimant has had and enjoyed the possession under the said grant. Provided that the said quantity of land granted and now here confirmed, be contained within the boundaries called for in the grant and map referred to therein; and if there be less than the said above-named quantity within the said bounds, then we confirm to the claimant that less quantity, it being apparent that

said quantity exceeds the minimum of two hundred varas, as prescribed by the Ordinance of the 21st of November, 1828.

Witness our hands, this 18th day of April, 1853.

HILAND HALL,
HARRY J. THORNTON,
Commissioners.

Filed in office, April 22d, 1853.

GEORGE FISHER,
Secretary.

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify that the foregoing thirty (30) pages, numbered from 1 to 30, both inclusive, to contain a true, correct and full transcript of the record of the proceedings, and of the decision of the said Board, of the documentary evidence, and of the testimony of the witnesses, upon which the same is founded, on file in this Office, in Case No. 220, on the Docket of the said Board, wherein Juan Wilson is the claimant against the United States, for the place known by the name of "Canada del Chorro."

[SEAL.] In testimony whereof, I hereunto set my hand and affix my private seal (not having a seal of office), at San Francisco, California, this thirty-first day of July, A. D. 1854, and of the Independence of the United States of America the seventy-ninth.

(Signed) GEO. FISHER,
Secretary.

United States District Court, Southern District of California.

CLERK'S OFFICE, LOS ANGELES, November 30th, 1855.

I, Charles E. Carr, Clerk of the District Court of the United States for the Southern District of California, do hereby certify, that the foregoing 31 pages, numbered from 1 to 31 both inclusive, contain a full, true and correct copy of Transcript No. 220, filed in this office, wherein Juan Wilson is appellee, and the United States an appellant for "El Chorro."

[SEAL.] In testimony whereof I have hereunto set my hand, and affixed the seal of said Court at Los Angeles, California, this thirtieth day of November, 1855, and of the Independence of the United States of America, the eightieth.

C. E. CARR,
Clerk.

District Court of the United States, Southern District of California.

CLERK'S OFFICE, LOS ANGELES, November 28th, 1855.

JUAN WILSON, appellee,
v.
The UNITED STATES, appellant.

Docket No. 25.
Transcript No. 220.

Be it remembered, that on the above-entitled cause on appeal to the District Court of the United States for the Southern District of California, in the United States of America, from the decision of the United States Land Commissioners to ascertain and settle private land claims in California,

The following proceedings were had, to wit:

Transcript from the Board of Commissioners in said case, No. 220 on the Docket of said Board, filed and marked No. 25 on the Docket of said Court.

Filed August 19th, 1854.

(Vide page 1.)

Notice of intention to prosecute appeal by the Attorney-General of the United States.

Filed November 7th, 1854.

(Vide page 3.)

Upon which notice the following subsequent proceedings were had in their chronological order, to wit:

Petition for review by the U. S. District Attorney.

Filed December 21st, 1854.

(Vide page 5.)

Answer to Petition for Review.

Filed March 12th, 1855.

(Vide page 11.)

Order of Court, allowing the taking further testimony in this cause, filed June 13th, 1855.

(Vide page 13.)

Traced copy of espediente and translation, filed October 19th, 1855.

(Vide page 13.)

Decree entered confirming the claim.

(Vide page 23.)

Order of Court, granting appeal to the Supreme Court of the United States.

(Vide page 24.)

OFFICE OF THE ATTORNEY-GENERAL OF THE UNITED STATES.
WASHINGTON, 11th September, 1854.

JUAN WILSON
v.
THE UNITED STATES.

Notice of Appeal from Attorney-General.

You will please take notice, that in the above case, decided by the Commissioners to ascertain and settle Private Land Claims in the State of California, in favor of the claimant, and a transcript of the proceedings in which was received in the office on the 30th day of June, 1854, the appeal in the District Court of the United States for Southern District of California, will be prosecuted by the United States.

(Signed) C. CUSHING,
Attorney-General.

Filed November 7th, 1854.

(Signed) C. E. CARR,
Clerk.

In the District Court of the United States for the Southern District of California, Los Angeles County.

JUAN WILSON
ads.
THE UNITED STATES. } No. 220.

Petition for Review.

To the Honorable Isaac S. K. Ogier, Judge of the District Court of the United States for the Southern District of California.

The petition of Pacificus Ord (of Monterey County), Attorney of the United States for the Southern District of California, who petitions in this behalf for the United States; and being present here in Court, in his proper person, in the name and behalf of the United States, represents as follows:

That heretofore, to wit, on or about the 7th day of May, A. D. 1852, John Wilson presented a petition to the Commissioners to ascertain and settle the private land claims in the State of California, claiming a tract of land called "Canada del Chorro," in San Luis Obispo County, in words and figures following, viz.:—"The petitioner, John Wilson, respectfully shows: that on the 10th day of October, A. D. 1845, Pio Pico, Governor of California, by virtue of authority in him vested, granted to the petitioner, jointly with his partner in business, James Scott, the land called 'Canada del Chor-

ro,' in the present County of San Luis Obispo, containing about one square league of land, with the boundaries described in the grant, and set forth in the corresponding map, which said grant was approved by the Assembly of California, on the 8th day of July, A. D. 1846; a copy of which grant and certificate of approval is submitted herewith, marked 'A,' with a translation marked 'B.' That on the 15th day of May, A. D. 1846, the said tract of land was duly surveyed, and the judicial possession of it given to the said James Scott and the petitioner, his partner in business, in due form of law; a copy of which act of survey and possession is submitted herewith, marked 'C,' with a translation marked 'D.' That on the 1st day of June, 1848, the said Scott sold and conveyed his right and interest in the said tract of land to the petitioner; a copy of which conveyance is submitted herewith, marked 'E,' with a translation marked 'F.' And the petitioner further shows, that the said tract of land has not been surveyed by the Surveyor-General of the United States, but that it was duly surveyed, and its boundaries marked, at the time of giving the judicial possession of it in 1846, as aforesaid, and has since been surveyed by the County Surveyor of the County of San Luis Obispo; a copy of a plat of which survey is submitted herewith, marked 'G.' That petitioner has been ever since and before the date of the grant aforesaid, and now is in the quiet, peaceful, and undisputed possession of the said tract of land. That he knows of no conflicting claim. That he relies for confirmation of title upon the original papers; copies of which are submitted herewith, and upon the records and minutes in the archives, and under the charge of the Surveyor-General, and upon such other and further proofs as he may be advised are necessary. Wherefore, he prays the Commissioners to confirm to him the said tract of land."

Your petitioner further represents that thereafter, to wit, on the 18th day of April, A. D. 1853, the said Commissioners confirmed by final decree the said claim of the said John Wilson, in the words and figures following, to wit:—"This Board, upon full consideration of the various grounds affecting the validity of the said claim, having come to the conclusion, that the same is valid, therefore now proceeds to make, and does hereby make the following decree or report of final confirmation, viz.:—It is decreed, that the said claim be confirmed to the claimant, to the extent and quantity of one square league, and for no more, being the same land described in the grant and expediente, to which the grant refers, and of which the claimant has had and enjoyed the possession under the same grant. Provided, that the said quantity of land granted and now here confirmed, be contained within the boundaries called for in the grant and map referred to therein; and if there be less than the said above named quantity within the said bounds, then we confirm to the claimant that less quantity, it being apparent that said quantity exceeds the *minimum* of two hundred varas, as prescribed by the

ordinance of the 21st of November, 1828. Witness our hands, this 18th day of April, 1853.

(Signed) " HILAND HALL,
(Signed) HARRY J. THORNTON. } Commissioners."

That thereafter, to wit, on the 19th day of August, A. D. 1854, a duly certified transcript of the said decree and proceedings, and the papers and evidence on which it was founded in said cause, was filed in the office of the Clerk of the District Court of the United States for the Southern District of California, and marked No. 220; reference to which, it is prayed, may be had and made a part of this petition.

That, on the 30th day of June, A. D. 1854, the Honorable Caleb Cushing, Attorney-General of the United States, received a duly certified duplicate of said transcript of said final decree, and proceedings of said Commissioners in said cause (No. 220), and the papers and evidence on which said decree was founded.

That thereafter, to wit, on the 7th day of November, A. D. 1854, the said Attorney-General of the United States, filed or caused to be filed, on behalf of the United States, a notice with the said clerk of said District Court for the Southern District of California, that the appeal in said cause of Juan Wilson *v.* The United States, from the decision of the said Commissioners to ascertain and settle the private land claims in the State of California, in the District Court of the United States, for the Southern District of California, would be prosecuted by the United States.

Your petitioner further represents, that the said land, claimed as aforesaid, is within the jurisdiction of this Honorable Court.

And your petitioner further represents and insists, that the said decree of said Commissioners is erroneous, and ought to be reviewed, reversed, and set aside, for many errors and imperfections of law and evidence, apparent in said certified transcript of said cause, now on appeal from said Commissioners to this Honorable Court.

And your petitioner further represents, that the said claim is invalid, and the said decree erroneous, on the following grounds:

1. That the said John Wilson shows no valid title to the said land, claimed by him as aforesaid, and it is denied that he has any.

2. That the said alleged grant of Pio Pico was made in violation of the fourth article of the colonization law of the 18th of August, A. D. 1824, in this, that the land granted, as alleged by claimant, was within ten leagues of the sea-coast, there being no evidence by claimant that the Supreme General Executive Power previously approved of the colonization of the lands of California within ten leagues of the coast; and it is denied, that such previous consent of said Supreme General Executive Power of Mexico in such case was ever had.

3. That at the date of the said alleged grant, the said land claimed as aforesaid, was occupied by the Missions of California, and particularly by the Mission of San Luis Obispo, and could not, therefore, be colonized.

4. That the said alleged grant has not the conditions required by, and is not made in entire conformity with, the law of the 18th of August, A. D. 1824, and the regulations of the 21st of November, A. D. 1828.

5. That the land is not described sufficiently in the grant so that it can be identified; that there is no term fixed within which the grantees should be bound to cultivate or occupy the land; and it is not upon the legal stamped paper.

6. That there is no legal evidence of the approval of the grant by the Departmental Assembly of California. That the certificate of Bonilla is insufficient, and there is no evidence that said Bonilla was Deputy Secretary of the Departmental Assembly on the 8th July, A.D. 1846. That the American flag was raised in California on the 7th of July, A.D. 1846, and all acts of said Departmental Assembly after that date were void.

7. That the original map referred to in the grant, and which forms a part thereof, is not shown; that the land cannot be identified and surveyed without it.

8. That no definitive title was given the said alleged grantees; that the judicial possession and survey of Pico, of the date of the 15th of May, A.D. 1846, was illegal without such definitive title.

9. That said judicial survey and possession was not made according to the calls and boundaries of the alleged original grant and map; and that said survey is vague and indefinite, and there is no evidence that said Pico was a magistrate on the 15th of May, A.D. 1846, with lawful authority and jurisdiction in the premises.

10. That the grantees have not proved that they built a house on the land within a year from the date of the grant, and that it was occupied, and that they cultivated the land. And it is denied that they built a house on the land claimed within a year from the date of the grant, and that it was occupied, and that they cultivated the land as required by law.

11. And it is alleged that the said Diego Scott and Juan Wilson, grantees, as alleged, at the date of said grant by said Pico, were not either of them by birth citizens of Mexico, and that they were foreigners, and were not naturalized citizens of Mexico, and could not, therefore, at that time, lawfully acquire or hold lands in fee in California. And no proof having been made by said claimant of the allegations of his said petition, or in support of his said claim filed as aforesaid, no decree ought to have been made or grounded thereon, but the said petition ought to have been dismissed and said claim rejected by said Commissioners upon the grounds aforesaid.

Wherefore, the said Pacificus Ord, Attorney of the United States

for the Southern District of California, for and in behalf of the United States, by reason of the premises, and the laws and statutes in such cases made and provided, prays that the said John Wilson or his attorney may be served with a copy of this petition, and that the Honorable Court will review the said decision or final decree of confirmation of said Commissioners to ascertain and settle the private land claims in the State of California, and decide on the validity of the said claim of said John Wilson for said land claimed and confirmed as aforesaid, and that the same may be decreed invalid, and all such other orders, judgments, or decrees as may be just, with costs and general relief.

P. ORD,
Attorney of the United States for the Southern District of California.

Filed December 21, 1854.

C. E. CARR,
Clerk.

In the United States District Court for the Southern District of California, County of Los Angeles.

JOHN WILSON, Appellee,
v.
THE UNITED STATES, Appellants. } No. 220.

Canada del Chorro.

The answer of John Wilson to the petition filed in behalf of the United States by the District Attorney of the Southern District of California, on appeal from the decree of the United States Land Commissioners, respectfully shows to this Honorable Court:

That, on the 10th day of October, A.D. 1845, Pio Pico, Governor of California, by virtue of authority in him vested, granted to the said John Wilson, the appellee, jointly with his partner in business, James Scott, the land called "Canada del Chorro," in the present County of San Luis Obispo, containing about one square league of land, with the boundaries described in the grant, and set forth in the corresponding map, which grant was approved by the Departmental Assembly of California, on or about the eighth day of July, 1846.

That, on or about the 15th day of May, 1846, the said tract of land was duly surveyed by the proper officers, and the judicial possession of it given to the said James Scott and the appellee in due form of law.

That, on or about the 1st day of June, 1848, the said Scott sold and conveyed his right, title, and interest in the said tract of land to the appellee.

That the appellee and the said James Scott faithfully performed all the conditions annexed to said grant.

3. That at the date of the said alleged grant, the said land claimed as aforesaid, was occupied by the Missions of California, and particularly by the Mission of San Luis Obispo, and could not, therefore, be colonized.

4. That the said alleged grant has not the conditions required by, and is not made in entire conformity with, the law of the 18th of August, A. D. 1824, and the regulations of the 21st of November, A. D. 1828.

5. That the land is not described sufficiently in the grant so that it can be identified; that there is no term fixed within which the grantees should be bound to cultivate or occupy the land; and it is not upon the legal stamped paper.

6. That there is no legal evidence of the approval of the grant by the Departmental Assembly of California. That the certificate of Bonilla is insufficient, and there is no evidence that said Bonilla was Deputy Secretary of the Departmental Assembly on the 8th July, A.D. 1846. That the American flag was raised in California on the 7th of July, A.D. 1846, and all acts of said Departmental Assembly after that date were void.

7. That the original map referred to in the grant, and which forms a part thereof, is not shown; that the land cannot be identified and surveyed without it.

8. That no definitive title was given the said alleged grantees; that the judicial possession and survey of Pico, of the date of the 15th of May, A.D. 1846, was illegal without such definitive title.

9. That said judicial survey and possession was not made according to the calls and boundaries of the alleged original grant and map; and that said survey is vague and indefinite, and there is no evidence that said Pico was a magistrate on the 15th of May, A.D. 1846, with lawful authority and jurisdiction in the premises.

10. That the grantees have not proved that they built a house on the land within a year from the date of the grant, and that it was occupied, and that they cultivated the land. And it is denied that they built a house on the land claimed within a year from the date of the grant, and that it was occupied, and that they cultivated the land as required by law.

11. And it is alleged that the said Diego Scott and Juan Wilson, grantees, as alleged, at the date of said grant by said Pico, were not either of them by birth citizens of Mexico, and that they were foreigners, and were not naturalized citizens of Mexico, and could not, therefore, at that time, lawfully acquire or hold lands in fee in California. And no proof having been made by said claimant of the allegations of his said petition, or in support of his said claim filed as aforesaid, no decree ought to have been made or grounded thereon, but the said petition ought to have been dismissed and said claim rejected by said Commissioners upon the grounds aforesaid.

Wherefore, the said Pacificus Ord, Attorney of the United States

for the Southern District of California, for and in behalf of the United States, by reason of the premises, and the laws and statutes in such cases made and provided, prays that the said John Wilson or his attorney may be served with a copy of this petition, and that the Honorable Court will review the said decision or final decree of confirmation of said Commissioners to ascertain and settle the private land claims in the State of California, and decide on the validity of the said claim of said John Wilson for said land claimed and confirmed as aforesaid, and that the same may be decreed invalid, and all such other orders, judgments, or decrees as may be just, with costs and general relief.

P. ORD,
Attorney of the United States for the Southern District of California.

Filed December 21, 1854.

C. E. CARR,
Clerk.

In the United States District Court for the Southern District of California, County of Los Angeles.

JOHN WILSON, Appellee,
v.
THE UNITED STATES, Appellants. } No. 220.

Canada del Chorro.

The answer of John Wilson to the petition filed in behalf of the United States by the District Attorney of the Southern District of California, on appeal from the decree of the United States Land Commissioners, respectfully shows to this Honorable Court:

That, on the 10th day of October, A.D. 1845, Pio Pico, Governor of California, by virtue of authority in him vested, granted to the said John Wilson, the appellee, jointly with his partner in business, James Scott, the land called "Canada del Chorro," in the present County of San Luis Obispo, containing about one square league of land, with the boundaries described in the grant, and set forth in the corresponding map, which grant was approved by the Departmental Assembly of California, on or about the eighth day of July, 1846.

That, on or about the 15th day of May, 1846, the said tract of land was duly surveyed by the proper officers, and the judicial possession of it given to the said James Scott and the appellee in due form of law.

That, on or about the 1st day of June, 1848, the said Scott sold and conveyed his right, title, and interest in the said tract of land to the appellee.

That the appellee and the said James Scott faithfully performed all the conditions annexed to said grant.

The appellant, before the date of said grant, and ever since that time, has been and now is in the peaceful and undisputed possession of the said tract of land.

Wherefore, the appellee prays this Honorable Court to affirm the decree of the said Board of United States Land Commissioners.

HALLECK, PEACHY & BILLINGS,
Attorneys for Appellee.

Filed March 12th, 1855.

C. E. CARR,
Clerk.

The above answer served on the District Attorney by the United States Marshal, March 19th, 1855.

In the United States District Court for the Southern District of California.

THE UNITED STATES, Appellant,
v.
JUAN WILSON, Appellee. } No.

Claim for "El Chorro."

And now, on the 12th day of June, 1855, the parties appear, the appellant by P. Ord, United States District Attorney for the Southern District of California, and the appellee by his attorney, H. W. Halleck; and on motion of appellee's attorney it is ordered, that either party may take such further testimony as they may wish in the above-entitled cause.

Filed June 13th, 1855.

C. E. CARR,
Clerk.

1845.

Espediente promovido por los Snr. Scott y Wilson enpetencia de la Canada "Del Chorro."

Exmo. Snr. Gobernador.

ANGELES, Abril 28de, 1845.

Ynforme la autoridad politica de Santa Barbara sobre lo contenido en esta instancia y enseguida buelon a este Gobierno porra resolver lo que convenga.

PICO.

Diego Scott y Juan Wilson ambos residentes en elpuerto de Santa Barbara auto la justificacion de V. E. Como haya mur lugar en derecho comparecemos aiciendo: Que Sicudo posedues de un corto terreno en las immediaciones de la Ex Mision de San Luis Obispo y teniendo la necesidad de aunentarte pora proporcionar a

nuestras cuantroses ganados los pastos necesarias: Venemos en emplorur de V. E. se sur concedumos enpropriedad el parage conocido car el nombre de la Canada Chorro car les estension que expresa el deseno que tenemos el honor de accompanar.

Dicho terreno esta conlindante con mustro mencimado Rancho por el Sur con el del Sor Guadalupe Cantura per el este. y con la Sierra por el Huti portante.

A. & E. pedimos y suplicamos se sirra mandor provier comopedimos esperando se dizou admitirnos en papel comun pior calta del Sillado Imamos no ser de malicia y lo necesario.

Sta. Barbara, 20de Abril, 1845.

(Signed) SCOTT y WILSON.

En cumplecirunto del Superior Decreto que antecede. No hay embaraso en concudreles a los interesados el terreno que solicitam en la presente instancia. Peres amas del conocuniento que esta Sub Prefectura tiene del mencionada parage es efectivo hallars o Valdio entre Don Guadalupe cantua y la Indigenos Romonaldo y Toribio y porlo mismo se reprito que nohay inconveniento un obseqiuar a la parte que susanbe.

Sta. Barbara, Septembre 4de 1845.

(Signed), ANASTASIO CARILLO.

Angelos Octobre, 10de 1845.

Vista la solicutad con da principir esto espediente informe del Sub Prefecto ad Sta. Barbara, carlo demas que se turo presente y consiguar convino de confirmidad con la ley de 18 de Agosto, de 1824, y reglamento de 2de Noviembre de 1828, declaro a Don Diego Scott y Don Juan Wilson duenos enpropriedad del terreno conocido con el Hombre de la Canada del Chorro para que lo agreguno al que ya posseen llamado canado de los Osos estiendose a los graciados al titulo respectivo y reservese el presente espediente para sointerle a la aprobacion de la Exma Asamblea Departamental. Don Pio Pico Gobernador provisional por ministerio Constitucional, de las Californias, asi lo mande decrete y firme de que doy le.

PIO PICO.

Pio Pico vocal decano de la Assamblea Departamental Gobernador provisional de los Californias por ministerio Constitucionel.

Por Onanto Don Diego Scott y Don Juan Wilson han pretendido para sa beneficio peronel y el de sa familia el terreno conocido con el nombre de Canada del Chorro, que se encuentre val dio entre

tierras de Guadalupe Cantua y de los Indigenos Romnaldo y Toribo del Rancho de la Canada de los Osos practicados previamente las avenguaciones concernientes segua lo dispuesto por leyes y reglamentos de la matina usando de las facultades que me son conferidas, a nombre de la Nacion Mexicana he venido por decreto de este dia en concerdeles el espresado terreno declarandales la propriedad de el por las presentes letras de confirmidad con la ley de 18 de Agosto, de 1824, y reglamento 21 de Noviembre de 1828, a reserva de la aprobacion de la Exma Asemblea y basso las condiciones siguientes.

1. Podran cercarlo son perfordicar las travesias cuminos y servidumbres y lo disputacion libre y esclucionamente destinandolo al uso y cultivo que mas les acomode, en la intelligencia que se les concede en ampliacion del terreno que posseen Nombrador Canada de los Osos.

2. El terreno de que se les hace donacion es de la estension de un sitio de ganado mayor o algo menos segun dunuestra el diseno que obra en el espediente, el Juez respectiva les dara la posesion juridica en virtual de este despacho, y demarcara los livideros con las masoneras necesarias.

En consecuencia mando que tenirudose el presente titulo por firme y valedero se tome razon de el en el libro respectivo y se entrigue a los interesados para sa resguardo y demos fines. Dado en la Ciudad de Los Angeles, en este papal comun per falto del Sellado que corresponde a diez de Octubre de mil ocho cientos cuarenta y cinco.

Queda tomada razon de este titulo en el libro a que corresponde.

ANGELES, Mayo 8de, 1840.

Dado cuenta en sesion de hoy con este espediente a la Exma Asamblea Departamental se mando pason a la comicion de terrenos.

PIO PICO,
Presidente.

AUGUSTIN OLVERA,
D. S.

Señor!

La comision de terrenos valdios encangada de examinar, el antecedente espediente promovido por D. Diego Scott y D. Juan Wilson, relativa al parage en ampliacion al que poseen nombrado el Chorro Jurisdicion de San Luis Obispo, que les fue concedido p'r el Sup. Gob. Departamental, con aneglo á las leyes de la matina enesto consepto pone á la deliberacion de V. E. la proposicion signiente.

Se aponeba la concesion hecha en favor de Don Diego Scott y Don Juan Wilson, de la ampliacion al terreno que poseen nombrado el Chorro, en estencion de me Gito de Guaado, mayor alyo minos segun titulo librado á sor beneficio, y el de sas familias con fha 10 de Octobre ultimo, con aneglo á la ley de 18 de Agosto de 1824, y art'e 5 del reglamento, de 21 de Noviembre de 1828.

Sala de comision en la Ciudad de los Angeles, Julio 4 de 1846.

S. AROUILLO.

Office of the Surveyor-General of the United States for California.

I, John C. Hayes, Surveyor-General of the United States for the State of California, and as such having in my office, and in my charge and custody a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California, by virtue of the power vested in me by law, do hereby certify, that the eight preceding and hereunto annexed pages of tracing paper, numbered from one to eight inclusive, exhibit a true and accurate copy of a certain document, now on file, and forming part of the said archives in this office.

In testimony whereof I have hereunto signed my name officially, and caused my seal of office to be affixed at the City of San Francisco, this first day of October, 1855.

[SEAL.]

(Signed) JOHN C. HAYES,
U. S. Surveyor-General for California.

Filed October 19th, 1855.

1845.

Espediente moved by Señors Scott and Wilson, in application for the "Cañada del Chorro."

No. 474.

Translation of Espediente.

ANGELES, April 28th, 1845.

The political authority of Santa Barbara, will report on the contents of this petition, and afterwards return it to this government for such action as it may determine.

(Signed) PICO.

Most Excellent Senor Governor:

Diego Scott and Juan Wilson, both residents of the port of Santa Barbara, before the justification of your Excellency in due form appear, saying:

That being possessed of a small piece of land in the vicinity of the Ex-Mission of San Luis Obispo, and having the necessity of increasing the requisite pasture in proportion to our numerous cattle, we come to ask of your Excellency, to be so good as to grant us in fee the place, known by the name of the "Canada del Chorro," with the extension which the map expresses, which we have the honor to submit herewith.

Said land is bounded by our said Ranch on the south, by that of Senor Guadalupe Cantua on the east, by the (Sierra) mountain on the north.

Wherefore we ask and pray your Excellency, to be so good as to give us we ask, hoping you will admit this on common paper for want of stamped.

We swear it is not in malice, and in due form.

Santa Barbara, April 20th, 1845.

(Signed) SCOTT & WILSON.

In compliance with the preceding decree, there is no objection to granting to the petitioners the land which they ask in this case, as according to the best information which this sub-prefecture has of the said place, it is in part vacant land between Don Guadalupe Cantua, and the Indians Romonaldo and Toribio, and by the same it is repeated, that there is no obstacle known to the undersigned.

Santa Barbara, September 4th, 1845.

(Signed) ANASTASIO CARILLO.

ANGELES, October 10th, 1845.

Having seen the petition with which this espediente begins, the report of the Sub-Prefecture of Santa Barbara, with all else presented and proper to be seen. In conformity with the law of August 18th, 1824, and the regulations of November 21st, 1828, I declare Don Diego Scott and Don Juan Wilson, owners in fee of the land known by the name of the "Canada del Chorro," that they may add it to that which they already possess, called "Canada de los Osos." Let the respective title be made out to the grantees, reserving the present espediente, to submit it to the approbation of the most excellent Departmental Assembly.

Don Pio Pico, Governor Provisional, by virtue of the constitution of the Californias, thus ordered, decreed, and signed, of which I certify.

(Signed) PIO PICO.

Pio Pico, Senor Vocal of the Departmental Assembly and Provincial Governor of the Californias, by virtue of the Constitution.

Whereas, Don Diego Scott and Don Juan Wilson have asked, for their own personal benefit and that of their families, for the land known by the "Canada del Chorro," which is found vacant between the lands of Guadalupe Cantua, of the Indians Romnldo and Toribio, and of the Rancho of the "Canada di los Osos," the examinations concerning the matter being previously made according to what is directed by the laws and regulations on the subject, using the powers conferred on me, in the name of the Mexican nation, I have, by decree of this day, granted to them the said land, declaring to them the ownership of it by these general letters, in conformity with the law of August 18th, 1824, and the regulations of November 21st, 1828, subject to the approbation of the most Excellent Assembly, and under the following conditions:

1. They may inclose it without prejudice to the crossings, roads, and easements, and enjoy it freely and exclusively, making the use and cultivation of it which may best suit them, with the understanding that it is granted to them as an addition to the land which they possess, called "Canada de los Osos."

2. The land which is granted is of the extent of one square

league, or a little less, as the map in the Espediente shows. The respective judge will give the juridical possession in virtue of this dispatch, and will mark the lines with the necessary landmarks.

Wherefore I order that the present title being held as good and valid, note be taken of it in the proper book, and it be delivered to the parties interested, for their security and other ends.

Given in the City of Los Angeles, on this common paper, for want of the corresponding stamped paper, this 10th day of October, 1845.

Note is taken of this title in the corresponding book.

ANGELES, May 8th, 1846.

In session of this day, this Espediente submit to the most excellent Departmental Assembly, and it was ordered to be passed to the Committee on Lands.

(Signed) PIO PICO,
President.

(Signed) AUGUSTIN OLVERA,
Deputy Secretary.

Senor:—The Committee on Vacant Lands, charged with examining the foregoing Espediente, moved by Don Diego Scott and Don Juan Wilson, relative to an addition to the place which they possess, called "El Chorro," in the jurisdiction of San Luis Obispo, which was granted by the Superior Departmental Government, in accordance with the laws in the matter, report, for the deliberation of your honorable body, the following proposition:

Approved, the grant made in favor of Don Diego Scott and Don Juan Wilson, of the addition to the land which they possess, called "El Chorro," in extent one square league, or a little less, according to the title issued for their benefit and that of their families, under date of the 10th of October last, in accordance with the law of August 18th, 1824, and article fifth of the regulation of November 21st, 1828.

Hall of Committees, in the City of Los Angeles, July 4th, 1846.

Filed October 19th, 1855.

(Signed) C. E. CARR,
Clerk.

THE UNITED STATES, Appellant,
v.
JUAN WILSON, Appellee. } No. 25.

"El Chorro." United States District Court, Southern District of California.

This cause coming on to be heard at a special term of this Court, on an appeal from the final decision of the Commissioners to ascertain and settle private land claims in the State of California, under

the Act of Congress, approved March 3d, 1851, upon the transcript of the decision and proceedings, and the papers and evidence on which said decision was founded, and on additional testimony taken in this Court, and it appearing that said transcript has been duly filed according to law, and counsel for the respective parties having been heard, it is ordered, adjudged, and decreed, that the decision of the said Commissioners be affirmed, and that the claim of the said Juan Wilson to the land described in the grant in this case is a good and valid claim, and that the same is hereby confirmed to the extent of one square league. Provided, that the said quantity of one square league be contained within the limits called for in said grant and map to which it refers, but if there be less than said named quantity, then the claim of said appellee to said less quantity is hereby confirmed.

(Signed) ISAAC S. K. OGIER,
U. S. District Judge for the Southern District of California.

THE UNITED STATES, Appellants,
v.
JUAN WILSON, Appellee. } No. 25.

On motion of P. Ord, Attorney of the United States for the Southern District of California, it is ordered by the Court that an appeal be granted the United States to the Supreme Court of the United States, from the judgment of this Court against the United States, in the above-entitled cause, rendered on or about the 20th day of October, A.D. 1855.

Filed October 20th, 1855.

(Signed) C. E. CARR,
Clerk.

United States District Court, Southern District of California.

CLERK'S OFFICE, LOS ANGELES, Nov. 30, 1855.

I, Charles E. Carr, Clerk of the District Court of the United States for the Southern District of California, do hereby certify the foregoing twenty-four pages, numbered from 1 to 24, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said Court, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in the office, in Case No. 25 on the docket of the said Court, wherein Juan Wilson is appellee, and the United States are appellants for "El Chorro."

In testimony whereof I have hereunto set my hand and [SEAL.] affixed the seal of said Court, at Los Angeles, California, this thirtieth day of November, A.D. 1855, and of the Independence of the United States of America the eightieth.

C. E. CARR,
Clerk.